

# **EXHIBIT 14**

1 UNITED STATES OF AMERICA  
2 BEFORE THE FEDERAL TRADE COMMISSION  
3  
4 In the Matter of )  
5 UNITED STATES OF AMERICA, )  
6 V. ) Docket No. C-4316  
7 TWITTER, INC. )  
8 )  
9 -----)

10  
11 Wednesday, June 21, 2023  
12 Via Zoom videoconference  
13

14 The above-entitled matter came on for  
15 deposition, pursuant to notice, at 12:30 p.m. Eastern,  
16 for the testimony of:

17  
18 DAVID ROQUE  
19  
20  
21

22 Reported by: DEBORAH WEHR, RPR  
23  
24  
25

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1 (Appearances continued.)

2

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1 P R O C E E D I N G S

2 - - - - -

3 STIPULATION:

4 All counsel present stipulate that the witness shall be  
5 sworn remotely by the court reporter.

6 - - - - -

7 Whereupon --

8 DAVID ROQUE,

9 a witness, called for examination, having been  
10 first duly sworn, was examined and testified as  
11 follows:

12 EXAMINATION

13 BY MS. COLLESANO:

14 Q. Would you please state your full name for the  
15 record.

16 A. David Roque.

17 Q. Good morning. My name is Anne Collesano, and  
18 I'm here with my co-counsel Reenah Kim and Erik Jones,  
19 as well as technologist Alex Gaynor. We are conducting  
20 this deposition virtually, and we are using Agile Law  
21 remote deposition application to share documents and  
22 Zoom software for video and audio. Prior to going on  
23 the record, we confirmed with all of the participants  
24 here that everyone can hear and see each other, but if  
25 at any point anyone has trouble hearing, seeing or

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1 accessing the documents we are using, please speak up  
2 and we'll address the concerns.

3 Would all other counsel please introduce  
4 themselves for the record.

5 MS. VANDRUFF: This is Laura VanDruff, and I'm  
6 appearing for Mr. Roque and Ernst & Young. I'm joined  
7 by in-house counsel Justin McCarty as well as Marc  
8 Carlson, who works in the general counsel's office at  
9 Ernst & Young.

10 MR. KOFFMANN: This is Daniel Koffmann from  
11 Quinn Emanuel on behalf of XCorp.

12 BY MS. COLLESANO:

13 Q. Good morning, Mr. Roque. Do you understand  
14 that you were administered an oath by the court  
15 reporter and are testifying today under penalty of  
16 perjury?

17 A. Yes.

18 Q. Do you understand that that oath you took has  
19 the same force and effect as if you were providing  
20 sworn testimony in a court of law?

21 A. Yes.

22 Q. Who is present with you in the room?

23 A. With me directly is Justin McCarty and Laura  
24 VanDruff.

25 Q. Thank you. Are you able to communicate with



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1 anyone in a way that I cannot see or hear?

2 A. No.

3 Q. You understand that communicating with anyone  
4 in a way that I cannot see or hear while we are on the  
5 record in this deposition is inappropriate, correct?

6 A. Understand, yes.

7 Q. Do you have any documents, software or  
8 applications open on your computer other than Agile Law  
9 or Zoom?

10 A. No.

11 Q. Do you have a phone with you that's within your  
12 reach other than the one you are using for audio?

13 A. I do. I can remove it.

14 Q. As long as you agree not to use it during the  
15 deposition.

16 A. Yeah, I'll just put away right now just to be  
17 safe. It's no longer with me.

18 Q. Thank you. Are there any other devices within  
19 your reach aside from the phone and the computer?

20 A. I have an iPad so that I can look at the  
21 documents. Those are the two devices that I have.

22 Q. You are using the iPad for Agile and the  
23 computer for Zoom?

24 A. That's correct.

25 Q. Do you have any paper documents in front of

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1     you?

2           A.   I have a copy of the FTC Consent Order.

3           Q.   Thank you.   Have you ever been deposed before,  
4   Mr. Roque?

5           A.   I have not.

6           Q.   Have you ever testified in a trial before?

7           A.   No, I have not.

8           Q.   Have you given any testimony under oath before?

9           A.   I have not.

10          Q.   Since you haven't testified before, I'm just  
11   going to go over some ground rules for the deposition.  
12   The court reporter is here, and she is writing down  
13   everything that we say.   So in order to ensure she is  
14   able to get an accurate record of what's being said, I  
15   ask that you let me finish my question completely  
16   before answering.   Can you do that?

17          A.   I'll do my best, yes.

18          Q.   Please answer every question verbally and  
19   audibly rather than gesturing.   Please listen carefully  
20   to each question.   If you do not understand a  
21   question, let me know, and I can rephrase it.   If you  
22   answer a question, I'll assume that you understood the  
23   question.

24          A.   Okay.   Yes.

25          Q.   Your attorney may make objections for the

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1 record. After any objection, you can go ahead and  
2 answer the question that's pending unless your attorney  
3 specifically instructs you not to.

4 A. Okay.

5 Q. If you would like to take a break at any time  
6 during the deposition, please let me know. I only ask  
7 that if a question is pending, you answer it before we  
8 take a break.

9 A. Okay.

10 Q. If at any point during your testimony today you  
11 need to correct or complete a previous answer, please  
12 let me know. We want a complete and accurate record.

13 A. Sure.

14 Q. Do you understand these ground rules?

15 A. I do.

16 Q. Do you understand that you are under oath to  
17 answer all questions truthfully and accurately?

18 A. Yes, I do.

19 Q. Is there any reason you cannot testify  
20 truthfully and accurately today?

21 A. No.

22 Q. Are you sick?

23 A. I am not.

24 Q. Are you taking any medications that may  
25 interfere with your ability to testify truthfully and

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1 accurately?

2 A. No.

3 Q. Do you have any questions before we proceed?

4 A. I do not.

5 Q. What did you do to prepare for today's  
6 deposition?

7 MS. VANDRUFF: I would caution the witness to  
8 not reveal the contents of any communications with  
9 counsel.

10 You may answer the question, Mr. Roque.

11 THE WITNESS: I had a few, I guess, preparation  
12 meetings in anticipation of this just to get familiar  
13 with the nature and flow of the discussions and how  
14 this day may proceed.

15 BY MS. COLLESANO:

16 Q. How many meetings did you have?

17 A. About four, I believe.

18 Q. Who was present for each meeting?

19 A. I don't know each meeting, meeting-by-meeting,  
20 but at a minimum, it would have been Laura VanDruff,  
21 Justin McCarty.

22 Q. Anyone else?

23 A. I'm sorry, I don't know Christina's last --  
24 there is a colleague that attended some of the meetings  
25 from Laura VanDruff's firm.

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1 Q. Anyone else?

2 A. And in one meeting I believe Marc Carlson was  
3 also there.

4 Q. Who is Marc Carlson?

5 A. Marc Carlson is -- works at Ernst & Young as  
6 part of the legal counsel, I understand.

7 Q. Anyone else?

8 A. Not that I'm aware of or remember.

9 Q. How long were the meetings? How much time  
10 overall did you meet with this group of people?

11 A. They ranged anywhere from an hour to a couple  
12 hours.

13 Q. Did you review documents?

14 A. Yes, I did.

15 Q. Do you recall what documents you reviewed?

16 A. Not off the top of my head, no. I mean, each  
17 one, no. I can give you an example. Like the Federal  
18 Trade Commission Consent Order itself, I did review.

19 Q. Anything else you recall?

20 A. The actual deposition request itself.

21 Q. Did you review documents related to the  
22 readiness assessment or the order assessment?

23 A. Not since we -- not since we -- I received the  
24 preservation order. I was told not to open and look at  
25 any documents.

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1 Q. Did you speak with anyone other than your  
2 attorney and those you met with -- those you have  
3 already told me you've met with about this deposition  
4 today?

5 A. No. I'm sorry, can I clarify that?

6 Q. Please.

7 A. I did. There's other people involved from our  
8 executive team. Like Geoff Beatty, he is the practice  
9 leader for the group. He is aware that I had been  
10 subpoenaed and would be needing to testify. There is  
11 Scott Coolidge, who is also part of the engagement  
12 team. I have talked to him about this engagement or  
13 needing to be deposed. And then there is a few other  
14 executives from our professional practice group and our  
15 risk management practice within Ernst & Young that are  
16 also aware of this proceeding.

17 Q. Did you discuss what would happen at today's  
18 deposition with any of these people?

19 A. No, I didn't go into any details. I just made  
20 them aware that the deposition request had been  
21 provided and that a date was to be determined of when I  
22 would need to share what I knew.

23 Q. You mentioned Mr. Beatty and Mr. Coolidge. Do  
24 you recall the names of others you spoke to?

25 A. Paul Penler from our professional practice

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1 group. And then Rebecca Lubens, also from EY legal  
2 counsel.

3 Q. Mr. Roque, where do you currently live?

4 A. I live in Oakland, California.

5 Q. Thank you. I would like to briefly discuss  
6 your educational background. Do you have a high school  
7 diploma?

8 A. I do.

9 Q. Any further education after high school?

10 A. Yes. I graduated from the University of  
11 California Los Angeles with a bachelor of science in  
12 business and economics.

13 Q. Any other degrees?

14 A. No.

15 Q. Any certifications related to your profession  
16 at EY?

17 A. Yes, I have a CPA license with the State of  
18 California.

19 Q. Anything else?

20 A. I have a CPA license in other states as well.  
21 Do you want all of those?

22 Q. Sure.

23 A. Okay. I have a CPA license in the State of  
24 Texas. I have CPA reciprocity with the State of  
25 Washington, the State of Montana. I have a CPA license

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1 with the State of Atlanta and a CPA license with the  
2 State of Utah as well as Massachusetts.

3 Q. You said the State of Atlanta. Do you mean  
4 Georgia?

5 A. I'm sorry, Georgia, yes.

6 Q. Where are you currently employed, Mr. Roque?

7 A. At Ernst & Young, LLP.

8 Q. What is your job title there?

9 A. It's partner.

10 Q. What does that mean?

11 A. I have an ownership interest in the partnership  
12 itself.

13 Q. Are you a full-time employee?

14 A. I am.

15 Q. How long have you worked at Ernst & Young?

16 A. It's coming up on 30 years. I started  
17 October 1, 1991.

18 Q. I'm impressed you remember the date.

19 A. It was a big milestone.

20 Q. Do you currently have any other jobs or  
21 employment?

22 A. No, I don't.

23 Q. As a partner at EY, what are your job  
24 responsibilities?

25 A. Providing, I guess, service to a host of



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1 external clients, managing internal team resources at  
2 younger levels and executing the firm's strategy.

3 Q. When you say executing the firm's strategy, who  
4 provides that strategy?

5 A. It comes from our global chairman, then also  
6 from -- more specifically from our Americas leadership  
7 team.

8 Q. Who do you report to?

9 A. I directly report to Hugh Rosengarten.

10 Q. What is his position?

11 A. He is the risk leader for the west, which is  
12 the region I reside in.

13 Q. What is included in west?

14 A. It goes from Alaska down to California, and  
15 then it crosses over to Texas, Oklahoma and Rogers,  
16 Arkansas.

17 Q. Does Mr. Rosengarten supervise your work as  
18 well?

19 A. No.

20 Q. Who supervises your work?

21 A. Sorry, I'm trying to think of the best way to  
22 answer that question. There's no one that -- there's  
23 no one that directly supervises my work. We have a  
24 system of internal quality control, and then on an  
25 engagement-by-engagement, we usually have a secondary

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1 quality control review partner that will provide  
2 oversight and sort of an independent assessment of the  
3 quality of work performance.

4 Q. So first the quality control group you  
5 mentioned, how does that work?

6 A. It's established by our firm on a national  
7 level, and they will selectively choose engagements  
8 throughout the year to perform a series of quality  
9 checks for compliance with firm and professional  
10 standards.

11 Q. So the group overall will look into different  
12 projects but not every single one?

13 A. Correct.

14 Q. And then you also have a quality control person  
15 assigned to each project?

16 A. For the services I provide, yes.

17 Q. And what does that person do when they are  
18 assigned a project that you work on?

19 A. They provide an independent perspective of the  
20 overall engagement conclusions reached.

21 Q. If they have a different opinion than you, is  
22 their opinion what you go forward with or is there a  
23 conversation or is it your opinion?

24 A. No, it's driven by a discussion of the group or  
25 the team, and if necessary, we can consult with other

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1 parties to make sure we reach the right conclusion.

2 Q. Who was the quality control person assigned to  
3 the order assessment?

4 A. That was Scott Coolidge.

5 Q. Who was assigned to the readiness assessment?

6 A. That was also Scott Coolidge.

7 Q. Prior to your current role as partner at Ernst  
8 & Young, have you held other positions there?

9 A. Yes. I had the position previous to being a  
10 partner was titled senior manager.

11 Q. How long were you in that role?

12 A. I believe seven or eight years.

13 Q. And how long have you been in the partner role?

14 A. Since 2004. July 1, 2004.

15 Q. So about 19 years?

16 A. Yeah. Long time.

17 Q. And prior to senior manager, was there another  
18 role you held?

19 A. The role prior to that within Ernst & Young is  
20 a manager role.

21 Q. How long were you in that role?

22 A. Two years.

23 Q. Prior to that did you have a different role?

24 A. I did. I had a role called senior.

25 Q. How long were you in that role?

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1 A. Three years.

2 Q. Anything before that?

3 A. We have a role called staff, and I was -- we  
4 have a staff 1 and a staff 2, and each on of those is  
5 one year.

6 Q. And you did each position?

7 A. That's correct.

8 Q. Anything prior to that?

9 A. No.

10 Q. Did you work anywhere else before Ernst &  
11 Young?

12 A. I did. I worked at the student store at UCLA.

13 Q. While you were in school?

14 A. Correct.

15 Q. What is your e-mail address at Ernst & Young?

16 A. It's my first name, David, dot, last name,  
17 R-O-Q-U-E, @ey.com.

18 Q. How many projects have you worked on at EY  
19 related to Twitter?

20 A. Five.

21 Q. What were those five projects?

22 A. Two of them were a system organization control  
23 report 2, a SOC 2 report. One was the readiness  
24 assessment. And the other two were the original or the  
25 previous FTC consent order and then the current FTC

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1 consent order.

2 Q. You mentioned systems organization control  
3 report. What does that mean?

4 A. It's a specific report issued under the AICPA  
5 standards that provide organizations the ability to  
6 communicate the operation of their processes and  
7 controls covering one or more topics, their security,  
8 availability, confidentiality, processing integrity  
9 and/or privacy.

10 Q. What is the report used for by Twitter?

11 A. The report for Twitter is for their  
12 advertisers.

13 Q. For their what? I'm sorry, I didn't hear that.

14 A. Their custom audience advertisers.

15 Q. So what does that mean?

16 A. If Twitter has an advertiser that uses a custom  
17 audience service, they would be entitled to receive the  
18 report we issue.

19 Q. About how things at Twitter work related to  
20 things that would impact those advertisers?

21 A. It's very specific to the custom audience  
22 network itself, and it was only on the security  
23 standard.

24 Q. What is a custom audience?

25 A. It's a service Twitter provides its

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1     advertisers. It's a platform that allows an advertiser  
2     to come in and place ads in the Twitter services.

3             Q. Okay. Thank you. The five projects that you  
4     mentioned, are any of them currently active?

5             A. No, I don't have any active work with Twitter.

6             Q. Which of those five projects was the first  
7     project you worked on with Twitter?

8             A. The system organization control report.

9             Q. When was that?

10            A. The first time was four years ago.

11            Q. And the second?

12            A. Three years ago.

13            Q. Was there a more recent SOC 2 report being  
14     worked on for Twitter?

15            A. There was.

16            Q. But you are not working on it?

17            A. I was not involved in that project, no.

18            Q. Is that project still active?

19            A. No, it's not.

20            Q. No, it's not? Is that what you said?

21            A. Sorry if you can't hear me. No, it's not.

22            Q. How would you describe the 2022 readiness  
23     assessment?

24                     MS. VANDRUFF: Objection. Vague.

25                     You may answer the question.

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1           THE WITNESS: The readiness assessment was  
2     intended to assess net new controls -- or what we call  
3     net new controls that Twitter was implementing or  
4     considering implementing relative to the revised order  
5     that expanded to include privacy.

6           BY MS. COLLESANO:

7           Q. What was your role on that project?

8           A. I was one of the -- I was the engagement  
9     partner responsible for the, I guess, engagement  
10    itself.

11          Q. What does that mean to be the engagement  
12    partner?

13          A. When we enter into a statement of work with a  
14    client, there is usually one primary partner that is  
15    designated with the term "engagement partner" that sort  
16    of has overall responsibility for executing the  
17    engagement, getting it completed and signing off.

18          Q. If I describe that assessment as readiness  
19    assessment throughout this deposition, does that sound  
20    reasonable to you?

21          A. It does.

22          Q. What was the 2022 FTC consent order assessment?

23               MS. VANDRUFF: Objection. Vague.

24               You can answer the question.

25           THE WITNESS: I'm sorry, the FTC assessment

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1     itself?

2                 BY MS. COLLESANO:

3                 Q.   The 2022 FTC consent order assessment project  
4     with Twitter, how would you describe that?

5                 MS. VANDRUFF:   Objection.

6                 THE WITNESS:   That was to specifically execute  
7     and provide the independent assessor report as required  
8     under the order.

9                 BY MS. COLLESANO:

10                Q.   If I describe that as the order assessment  
11     throughout the deposition, does that sound reasonable  
12     to you?

13                A.   It does.   In the context, that will be the  
14     current one?

15                Q.   Yes.   So that's what I'm proposing, if I say  
16     order assessment, I mean the current order assessment  
17     that was terminated in February, unless I specify it's  
18     a different one, just for ease of talking about it  
19     throughout the deposition.

20                A.   Just to make sure I understand, the one that  
21     was reissued in the summer of 2022, that consent order?

22                Q.   Yes, the statement of work that was signed in  
23     the summer of 2022.

24                A.   Okay.   Yeah.

25                MS. VANDRUFF:   Counsel, there were two



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1 statements of work in the summer of 2022. So you are  
2 referencing --

3 MS. COLLESANO: I'm trying to establish that we  
4 can describe -- we said the readiness assessment, we  
5 described that that would be the order assessment would  
6 be for the statement of work signed in August. I know  
7 the readiness assessment statement of work was signed  
8 in July, but I think we can call that the readiness  
9 assessment and call the subsequent inquiry the order  
10 assessment just for shorthand today rather than saying  
11 the 2022 FTC consent order assessment. That's all I'm  
12 asking, if that's all right with Mr. Roque.

13 THE WITNESS: Yes, that's fine.

14 BY MS. COLLESANO:

15 Q. What was your role on the order assessment?

16 A. I was the engagement partner once again.

17 Q. And how would you describe that role on the  
18 order assessment?

19 A. I was ultimately going to be responsible for  
20 issuing the report.

21 Q. Why did EY terminate the order assessment SOW  
22 for Twitter?

23 A. The firm made a business decision to no longer  
24 continue with the work.

25 Q. What was the reason for that? What were the

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1 reasons for that business decision?

2 A. There was a series of reasons. There was not  
3 one in particular. It was a combination of various  
4 considerations.

5 Q. What were those considerations?

6 A. They were -- they included the timing, where we  
7 were with the timing of the engagement. They included  
8 the resource availability of the client to support and  
9 execute the engagement, the ongoing changes amid the  
10 executive management team to be able to represent  
11 compliance with the order.

12 Q. Anything else?

13 A. I would have to refer back to our resignation  
14 memo.

15 Q. You mentioned timing as one of the reasons.  
16 Could you please elaborate on what that means.

17 A. Yes. The consent order has a very specific  
18 timeline for the end of the assessment period, which  
19 was one year after the order was signed. And then the  
20 report needs to be provided within 60 days. We had not  
21 been able to begin or execute any of our field work  
22 procedures as of the end of February, and there was  
23 concerns whether or not we would actually be able to  
24 complete or assess all of the controls that we were  
25 going to be required to look at in three months.

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1 Q. Why weren't you able to do any of your field  
2 work by the end of February?

3 A. We were informed by the client that they were  
4 not ready for us to be onsite.

5 Q. Had you previously told them you needed to be  
6 onsite prior to that time period?

7 A. Yes, we did.

8 Q. When did the order assessment SOW contemplate  
9 that EY would start its field work?

10 A. I believe in the statement of work itself,  
11 within the timeline section of that statement of work,  
12 the original goal was for us to begin and be onsite  
13 starting in January of 2023.

14 Q. That date was agreed to by both Twitter and EY  
15 at the time?

16 A. That is correct.

17 Q. Do you recall when you first started asking  
18 Twitter about the timing of the field work start?

19 A. Yes.

20 Q. When was that?

21 A. It was in December of 2022.

22 Q. What did you tell them in December of '22?

23 A. We would like to begin executing our procedures  
24 sooner than later, and if possible could we get going  
25 in December.

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1 Q. What was the response?

2 A. They were not able to accommodate that request.

3 Q. Who does that mean they were not able to  
4 accommodate the request?

5 A. They indicated to us they did not have the  
6 resources to facilitate us beginning our procedures.

7 Q. Did they give you an indication of when they  
8 thought you would be able to start your procedures?

9 A. The only time they provided an indication was  
10 in February they had proposed we begin our field work  
11 procedures March 15th.

12 Q. From December through February did EY inquire  
13 more than once about beginning field work?

14 A. We did.

15 Q. About how many times would you estimate?

16 A. I'm sorry, did you say -- did you give a month  
17 or a date? Could you clarify that again.

18 Q. About how many times would you estimate you  
19 contacted Twitter about starting the field work between  
20 December 2022 and February 2023?

21 A. From December to February, it would be at least  
22 weekly.

23 Q. What was the reply you got from Twitter?

24 A. They were actively looking to get the resources  
25 necessary to accommodate our field work procedures.

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1 Q. Was EY ready to begin its procedures?

2 A. We were.

3 Q. You also mentioned resource availability of the  
4 client as part of the reason behind your decision to  
5 terminate. Would you elaborate on that, please.

6 MS. VANDRUFF: Objection. Vague.

7 You may answer the question.

8 THE WITNESS: Sure. It was -- there had been  
9 just a significant amount of turnover and departure of  
10 employees from the company, they were down to a very  
11 limited set of individuals that had been identified to  
12 facilitate our audit. And the audit itself can be a  
13 very overwhelming exercise, and we weren't sure that  
14 they would be able to have the necessary resources for  
15 us to execute our procedures.

16 BY MS. COLLESANO:

17 Q. Did Twitter tell you they didn't have enough  
18 resources to exercise those procedures?

19 A. They said they were short and actively trying  
20 to hire some resources to supplement their team.

21 Q. Did they give you any more details about what  
22 they meant by short?

23 A. They did not.

24 Q. Did they give you any more details about who  
25 they were actively trying to hire?

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1 A. No, they just said they had open positions.

2 Q. Do you have an idea of how many open positions?

3 A. I believe there was at least two.

4 Q. Of these two, do you know what those two  
5 positions were?

6 A. They were specific -- my understanding is they  
7 were very specific to, I guess, a role of compliance or  
8 internal audit, someone with a control or an audit  
9 background.

10 Q. Would these be high-level employees they were  
11 looking to hire?

12 A. I don't know the level structure of all the  
13 different categories of employees. My understanding is  
14 it was supposed to be someone with multiple years of  
15 experience with facilitating or conducting audits.

16 Q. The contacts you were given by Twitter to  
17 facilitate the order assessment, did you think that  
18 they had the requisite experience to fulfill that  
19 position?

20 A. Is there -- sorry. Not to be rude, your  
21 question was a little vague. We had multiple contacts  
22 provided to us. So I'm not sure I understand which one  
23 you are asking about specifically.

24 Q. Absolutely. Can you tell me who your first  
25 contact was at Twitter for the order assessment?

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1           A. The first primary owner and contact was Damien  
2     Kieran.

3           Q. Can you give me the list of all that you recall  
4     who were the primary contact?

5           A. I can do my best. After Damien there was the  
6     internal audit group, primarily a gentleman by the name  
7     of Brett Cohune. Then there was a gentleman by the  
8     name of Jim Baker. After Jim Baker was Sergio Alonso.  
9     Then we were provided with Damien Vogt. Then after  
10    Damien we were provided with Christian Dowell. And  
11    then it was a combination of Christian Dowell and  
12    Damien from probably early January until the date we  
13    resigned.

14          Q. When you were working with Damien Kieran, were  
15    you getting the information and access that you needed  
16    from him?

17           MS. VANDRUFF: Objection. Compound.

18           But Mr. Roque, you can answer the question.

19           THE WITNESS: Yes, we were -- there was no  
20    restrictions from Damien in responding to our questions  
21    or helping us get information that we requested of him.

22           BY MS. COLLESANO:

23          Q. How about with Bret Cohune?

24          A. There was no inability for him to provide  
25    information and answer questions or give us access to

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1 data or people that we were requesting.

2 Q. Did that change at all after October 27, 2022?

3 A. No. We were making requests for information.

4 All the resources we interacted with at the company did  
5 their best to provide or follow up to our request as  
6 timely as possible when there was -- to have meetings  
7 with individuals or review evidence if it existed.

8 Q. Do you recall when the transition happened from  
9 Mr. Cohune to Mr. Baker?

10 MS. VANDRUFF: Counsel, can you repeat the  
11 question, please.

12 BY MS. COLLESANO:

13 Q. Do you recall when the change happened from  
14 Mr. Cohune to Mr. Baker?

15 A. The -- yes. It was sort of twofold. The first  
16 one was Mr. Baker was assigned as our primary contact  
17 responsible for the program or the privacy and security  
18 program that Twitter had. After Damien resigned, Bret  
19 was still working at the company at the time. And then  
20 when Mr. Cohune left around Thanksgiving in November,  
21 he officially communicated to Mr. Baker and EY that  
22 that's who we should be working with at that time.

23 Q. Did Mr. Baker provide you with information that  
24 you requested?

25 A. He did not directly.



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1 Q. What does that mean?

2 A. We sent numerous e-mails to him asking to the  
3 meet with him about the order, introduce ourselves and  
4 see if he had any questions about how we could get --  
5 how we could proceed or how it would take place, but he  
6 never responded back to our e-mails. And I think  
7 within about ten days, he was terminated from the  
8 company.

9 Q. How about a Sergio Alonso?

10 A. We were informed to work with him after  
11 Mr. Baker's departure, but he left the company or was  
12 terminated within a week after Mr. Baker.

13 Q. How about Damien Vogt?

14 A. I believe he's still employed with the company.

15 Q. Did he provide you with information and access  
16 that you requested?

17 A. He did, yes.

18 Q. Was he amenable to EY's request to start field  
19 work in January?

20 MS. VANDRUFF: Objection. Vague.

21 You may answer the question.

22 THE WITNESS: He was -- I'm not sure he was  
23 amenable or not amenable to it. We just said we wanted  
24 to start executing our procedures, and he represented  
25 that they understood that and were working to make it

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1 happen as quickly as they could.

2 BY MS. COLLESANO:

3 Q. But he did not provide you access to start your  
4 field work at Twitter?

5 A. That's correct.

6 Q. Did you make multiple requests to Mr. Vogt as  
7 well?

8 A. We did.

9 Q. You mentioned turnover and departures as part  
10 of the resource availability issues. Were there any  
11 other resource availability issues that contributed to  
12 the decision to terminate?

13 A. Yes.

14 Q. What were they?

15 A. Just the amount of change with control owners  
16 or controls actually not having a control owner  
17 identified.

18 Q. So when you say the amount of change with  
19 control owners, what do you mean by that?

20 A. The large number of departures that occurred at  
21 the company in November and through early December just  
22 left holes operationally.

23 Q. So each control needed to have a control owner,  
24 but that control owner was continuing to change; is  
25 that what you mean?

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1           A. Either the control owner was continuing to  
2     change or a new control owner had not yet been  
3     identified to replace a control owner that had left.

4           Q. So in addition to the turnover of control  
5     owners, there were also controls that did not have a  
6     control owner at all?

7           A. Yes.

8           Q. What time period was this happening?

9           A. It was happening in at least December. We had  
10    made a request to get a list of all of the controls and  
11    the control owners themselves, and as of that day we  
12    had a preliminary list for a set of controls that  
13    showed where the control owners had changed or there  
14    was gaps.

15          Q. When you say controls, just to take a step  
16    back, what does that mean? What is a control?

17          A. A control, how I interpret the definition of a  
18    control is it is intended to address a specific risk.  
19    So if you identify a risk, you usually will identify a  
20    control to mitigate that risk.

21          Q. And a privacy and information security program  
22    would be made up of numerous controls to address  
23    various risks?

24          A. That's correct.

25          Q. You said this issue with the control owner

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1 turnover and lack of control owners began in at least  
2 December 2022. How long did it continue?

3 A. The next update we received was at the end of  
4 January when we were provided with a complete list of  
5 all controls and scope that would form the framework of  
6 our audit. And there was still -- we were able to  
7 identify revised changes of control owners since  
8 December as well as still some controls that did not  
9 have a control owner assigned to it.

10 Q. Can you explain what a control owner is in this  
11 context?

12 A. It would be the individual that's primarily  
13 responsible for, I guess, executing the control and  
14 make sure it occurs in accordance with the design of  
15 that control.

16 Q. So from at least December 2022 to the end of  
17 January 2023, there were a lot of control owner changes  
18 and a lot of controls without control owners; is that  
19 correct?

20 A. I'm not sure what your terminology of "a lot"  
21 is. I would just say there was -- we could identify  
22 that there were control owners which had changed, and  
23 there were certain controls that were listed without a  
24 control owner.

25 Q. How many controls made up -- approximately made

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1 up the Twitter privacy and info security program?

2 A. I don't remember the specific number, but there  
3 was north of 350.

4 Q. And of those approximately 350, how many  
5 changed control owners?

6 A. I don't remember that off the top of my head.  
7 I'm sorry.

8 Q. Do you think it would be more than 100?

9 A. I don't want to mislead or provide inaccurate.  
10 I just don't remember.

11 Q. Of those, about 350 control owners, how many,  
12 approximately, didn't have a control owner?

13 A. Maybe 10 percent.

14 Q. Why was the high turnover of control owners or  
15 lack of control owners an issue for EY?

16 A. The amount of turnover of the control owners --  
17 sorry. Usually when you have a new control owner, the  
18 owner isn't as familiar with the control as if somebody  
19 had been executing that for a period of time. So it  
20 usually requires more effort and back-and-forth in  
21 order for the control owner to demonstrate the  
22 operation of the control, collect evidence, whatever  
23 else comes with those responsibilities. And so having  
24 a lot of, let's say, new people in new roles  
25 potentially increased the level of effort.

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1 Q. Did EY have the resources to increase this  
2 level of effort?

3 A. We did.

4 Q. Did Twitter?

5 MS. VANDRUFF: Objection. Lacks foundation.  
6 You may answer the question.

7 THE WITNESS: I don't know. I don't know what  
8 they would have -- sorry. I just don't know if they  
9 had the resources or not.

10 BY MS. COLLESANO:

11 Q. Based on your experience, do you think they had  
12 the resources?

13 MS. VANDRUFF: Objection. Lack of foundation.  
14 You may answer the question.

15 THE WITNESS: My personal perspective was, no,  
16 because, as I communicated earlier, they had indicated  
17 they weren't quite ready to support our execution of  
18 the field work because they were resource constrained.

19 BY MS. COLLESANO:

20 Q. Any other resource availability concerns  
21 related to this issue?

22 A. I'm not sure I understand the question.

23 Q. Sure. I'll rephrase. You mentioned resource  
24 availability at Twitter was one of the reasons that EY  
25 decided to terminate. And we discussed the turnover

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1 and departures of employees and the change of control  
2 owners and lack of control owners. Were there any  
3 other resource availability issues that EY was  
4 concerned about?

5 A. No. The lack of a designated control owner or  
6 resources to facilitate the audit itself was our main  
7 concern.

8 MS. VANDRUFF: Counsel, earlier in Mr. Roque's  
9 assessment, he did reference the resignation memo. So  
10 to the extent that you are looking for a comprehensive  
11 accounting of Ernst & Young's concerns, I would  
12 reference his testimony there.

13 MS. COLLESANO: Thank you.

14 BY MS. COLLESANO:

15 Q. You also mentioned executive management changes  
16 at Twitter were a reason for the resignation. Would  
17 you please elaborate on that.

18 A. Yes. There was just a significant amount of  
19 the executives that were originally familiar with the  
20 programs that had been implemented had departed, and as  
21 new ones were identified, they also were departing.  
22 And there was just sort of a constant turnover of those  
23 executives starting in early November.

24 Q. Why was that a concern for EY?

25 A. One of our required procedures under the

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1 professional standards is that we need to obtain a  
2 representation letter, and usually it is signed by an  
3 individual or a group of individuals in a management or  
4 executive role that have responsibility for the subject  
5 matter we are auditing to be able to convey they have  
6 accurately represented and truthfully shared the  
7 operation of the program. And in order to do that, you  
8 need to have been involved with the program for a  
9 period of time, and we were wondering if the  
10 organization would be able to have somebody in a role  
11 that could make those type of attestations or  
12 representations to us.

13 Q. When you mentioned the people that left Twitter  
14 beginning in early November, who do you mean  
15 specifically?

16 A. So first, in November the main person was  
17 Damien. He was sort of the control owner or -- not the  
18 control owner. The program owner. And then Bret, as I  
19 mentioned earlier, Cohune, left. So he was the last of  
20 the internal audit resources. So the entire internal  
21 audit team had departed by then as well as their  
22 compliance functions.

23 Q. When you say Damien, do you mean Damien Kieran?

24 A. Yes, I'm sorry.

25 Q. Were there any other departures that were



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1 concerning?

2 A. There was. There was, I believe, the chief  
3 security officer departed. The head of human resources  
4 departed. Other professionals in the legal group  
5 departed. There was finance people departing. There  
6 was a large host of relatively senior executives across  
7 the board leaving the organization.

8 Q. When you said that you need executives who have  
9 been involved for a period of time, what kind of time  
10 period are you talking about?

11 A. There's no specific time period. It would just  
12 be somebody to be able to demonstrate an understanding  
13 of the program and have enough knowledge for us, in our  
14 professional judgment, to feel comfortable that they  
15 sort of understood the breadth of it and what it was  
16 entailed to do and how it operated.

17 Q. And you weren't confident Twitter had that in  
18 February 2023?

19 A. We were -- I wouldn't say we weren't confident.  
20 We just said it was a potential risk if and when it  
21 came time to issuing our report at the end of May.

22 Q. Was there any other reasons you recall that EY  
23 terminated that we haven't yet discussed?

24 A. Not off the top of my head, but Ms. VanDruff  
25 indicated I think we had them bullet-pointed in our

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1 resignation memo that was put in our file.

2 Q. We'll look at that memo soon.

3 MS. VANDRUFF: Counsel, if you are going to  
4 switch to that, maybe this is a good time for us to  
5 take a short break. We are at the one-hour mark.

6 MS. COLLESANO: Sure. I wasn't going to look  
7 at it right now, but I'm happy to take a break now if  
8 Mr. Roque wants a break.

9 MS. VANDRUFF: Let's do that. Let's just take  
10 five minutes.

11 (A recess was taken.)

12 BY MS. COLLESANO:

13 Q. Mr. Roque, when did EY first consider  
14 terminating its statement of work with Twitter for the  
15 FTC order assessment?

16 A. In early February.

17 Q. Were there any discussions about it prior that  
18 you were aware of?

19 A. Not -- no, there was no concerted discussions I  
20 was aware of prior to then.

21 Q. When you say no concerted discussions, does  
22 that mean there were some discussions?

23 A. There could have been situations where somebody  
24 said, I guess we could always resign, but more of an  
25 off-the-cuff statement than not necessarily we are

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1 going to resign.

2 Q. What prompted EY to consider termination at  
3 that time?

4 MS. VANDRUFF: Objection. Vague as to time.  
5 You may answer the question.

6 THE WITNESS: Assuming the time you mean in  
7 February?

8 BY MS. COLLESANO:

9 Q. Yes.

10 A. It was just a culmination of many of the items  
11 that we had been discussing previously. I mean, when I  
12 say "we," on this particular call, such as would we be  
13 able to execute the engagement timely? Would we be  
14 able to meet the deadlines and get the body of work  
15 done that we wanted to.

16 I apologize. Now that you have asked that  
17 question, there was another item that did resolve  
18 itself, but we had outstanding invoices that had not  
19 been paid. So we were continuing to call up and ask  
20 about those, and leadership was asking if we had been  
21 paid for those balances in February as well. So there  
22 was just several items coming together that as a group  
23 we had discussions about.

24 Q. You mentioned outstanding invoices. What time  
25 period were invoices outstanding from Twitter?

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1           A. We had invoices that were due for payment near  
2     the end of December, and those had not been paid as of  
3     the end of January, early February.

4           Q. Do you have any idea of the amounts of money  
5     that was due on those invoices?

6           A. It was about \$500,000.

7           Q. Had EY been following up with Twitter about  
8     those payments being due?

9           A. Yes.

10          Q. More than once?

11          A. Weekly.

12          Q. What was the response from Twitter about the  
13     outstanding invoices?

14          A. They were working on it.

15          Q. You said the fact that EY wasn't getting paid  
16     by Twitter was one of the reasons considered related to  
17     termination?

18          A. It was something we were monitoring.

19          Q. Who at EY was involved in the discussions about  
20     whether to terminate the SOW with Twitter?

21          A. There was the engagement team. So myself,  
22     Scott Coolidge, Angela Rohan, and then our risk  
23     management team, our professional practice group as  
24     well as executive leadership, and sorry, various people  
25     from legal counsel as well.

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1 Q. Who was on the executive leadership team that  
2 discussed it?

3 A. There would have been Geoff Beatty and Frank  
4 Mahoney that I'm aware of.

5 Q. Who is Frank Mahoney?

6 A. He is our west region leader for all service  
7 lines. He is also a vice chair of Ernst & Young.

8 Q. For all service lines, what does that mean?

9 A. Ernst & Young is primarily made up of four  
10 service lines. We have audit, tax, consulting and  
11 transaction advisory services.

12 Q. How was the decision made?

13 MS. VANDRUFF: Objection. Mr. Roque can answer  
14 the question to the extent that it doesn't reveal the  
15 substance of an attorney-client communication. And  
16 counsel, you may want to rephrase the question to be  
17 more granular, because I think, as Mr. Roque has  
18 testified, that counsel was present for these meetings.

19 BY MS. COLLESANO:

20 Q. What was the process around the  
21 decisionmaking -- around the decision to terminate?

22 A. There was a series of meetings held over a  
23 period of time where input and facts and circumstances  
24 were gathered. The ultimate decision, I was not a part  
25 of that meeting.

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1 Q. Do you know who was part of the ultimate  
2 decision meeting?

3 A. I don't.

4 Q. Who would you expect to have been part of the  
5 meeting?

6 MS. VANDRUFF: Objection. Calls for  
7 speculation.

8 You may answer the question.

9 THE WITNESS: I honestly don't know, other than  
10 Frank. I'm assuming somebody from other equivalent  
11 positions maybe.

12 BY MS. COLLESANO:

13 Q. You said there were a series of meetings over a  
14 period of time. What period of time are you talking  
15 about?

16 A. Mostly February. We would, probably on  
17 average, have at least a meeting once a week.

18 Q. When you say a weekly meeting, was it a large  
19 meeting involving all the people that you previously  
20 described to me as being involved in the discussions?

21 A. Yes, that's correct.

22 Q. When was the ultimate decision made?

23 A. I believe it was February 20th or 21st.

24 Q. How did you learn that the decision had been  
25 made?

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1 MS. VANDRUFF: Objection.

2 Mr. Roque, you may answer the question if you  
3 know outside of attorney-client communication. If you  
4 don't, then I instruct you not to answer on the basis  
5 of attorney-client privilege.

6 THE WITNESS: I have been instructed not to  
7 answer.

8 BY MS. COLLESANO:

9 Q. So someone informed you the decision was made?

10 MS. VANDRUFF: I'm sorry, so the question is  
11 did someone inform him the decision was made?

12 MS. COLLESANO: I'm just trying to understand  
13 was he e-mailed? Did someone tell him? Was -- I'm  
14 just trying to understand how he learned that the  
15 decision was made since he said he was not in the room  
16 when it was made.

17 MS. VANDRUFF: I'm not trying to obstruct the  
18 discovery of facts to which the FTC is entitled, but I  
19 also don't want to affect any waiver, of course. So  
20 I'm wondering if this is a subject on which we can  
21 submit a writing that doesn't do that, that we can do  
22 this carefully, Anne, so that Mr. Roque doesn't wander  
23 inadvertently into that. Could we consider that?

24 MS. COLLESANO: Why don't we put a pin in it  
25 for now and we can discuss it on a break.

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1 MS. VANDRUFF: That would be great.

2 BY MS. COLLESANO:

3 Q. What impact did EY contracts with Musk  
4 companies other than Twitter have on the decision to  
5 terminate the order assessment statement of work?

6 MS. VANDRUFF: Objection. Lack of foundation.

7 You may answer.

8 THE WITNESS: There was none.

9 BY MS. COLLESANO:

10 Q. You just said you weren't in all the  
11 conversations or the ultimate decision meeting. How do  
12 you know that that was never something that was  
13 considered?

14 MR. KOFFMANN: Objection. Foundation.

15 MS. VANDRUFF: Same objection.

16 You may answer the question, if you know,  
17 Mr. Roque. I would also caution you that, again, what  
18 you can't do is reveal any attorney-client  
19 communications in answering this question.

20 And it might be helpful if the court reporter  
21 repeated the question.

22 (The record was read as requested.)

23 MS. VANDRUFF: Objection to lack of foundation  
24 and then instruction to not answer if the basis of your  
25 knowledge is an attorney-client communication.



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1 THE WITNESS: I'm sorry, can we have a minute?

2 MS. VANDRUFF: We certainly can. We are going  
3 to go off the record for a minute.

4 (A recess was taken.)

5 BY MS. COLLESANO:

6 Q. Mr. Roque, were you in a position to know  
7 whether Musk company businesses factored into EY's  
8 termination decision?

9 MR. KOFFMANN: Objection. Vague.

10 MS. VANDRUFF: You may answer the question,  
11 Mr. Roque, were you in a position?

12 THE WITNESS: No, I don't think I was in a  
13 position.

14 BY MS. COLLESANO:

15 Q. Was the potential of a bad report for Twitter  
16 discussed in relation to a reason to terminate?

17 A. No.

18 Q. Were you in a position to know whether that was  
19 discussed by anyone in relation to the termination  
20 decision?

21 MS. VANDRUFF: Objection. Vague.

22 THE WITNESS: Can I answer?

23 MS. VANDRUFF: You may answer.

24 THE WITNESS: Sorry. It wasn't.

25 BY MS. COLLESANO:

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1 Q. Despite the fact that you weren't in all of the  
2 decision-related meetings, you know that this was never  
3 discussed?

4 MS. VANDRUFF: And Mr. Roque, again, I'm  
5 instructing that you may answer as to meetings that --  
6 of which you have personal knowledge that did not  
7 include counsel -- during which there were not  
8 attorney-client communications, you may answer the  
9 question.

10 THE WITNESS: I think that the item to  
11 appreciate is that we actually hadn't conducted any  
12 work with regards to the FTC order itself. So we  
13 weren't really in a position to draw any conclusions,  
14 because we had no results. So I don't think it would  
15 have been appropriate to go in assuming we would have  
16 had a negative report. So from my opinion, excluding  
17 the conversations with counsel, that was not a factor  
18 I'm aware of.

19 BY MS. COLLESANO:

20 Q. Were you in a position to know whether there  
21 was a discussion of the impact this assessment on other  
22 potential Twitter business?

23 A. I was, and I'm not part of the Twitter  
24 management team. I don't know what their decisions  
25 might have been.

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1 Q. When you say the Twitter management team, what  
2 do you mean by that?

3 A. I was -- if I understood your question  
4 correctly, you were asking if our decisions would have  
5 impacted other Ernst & Young work at Twitter. That  
6 would be up for them to decide if they wanted to  
7 continue to use Ernst & Young for existing or any other  
8 services. That's how I was responding to the question.

9 Q. When you say you weren't part of the management  
10 team that made the decision on the termination, who was  
11 in that management team that you are referring to?

12 MS. VANDRUFF: Objection. Mischaracterizes  
13 testimony.

14 You may answer.

15 THE WITNESS: I'm sorry, maybe we could ask the  
16 question again. I'm getting confused. I was  
17 responding that I was not part of the Twitter  
18 management team. I may not have understood the  
19 question correctly.

20 MS. VANDRUFF: Counsel, maybe we can back up.  
21 You asked a question about whether it would affect  
22 Ernst & Young's business with Twitter. I think  
23 Mr. Roque misunderstood that question. So maybe we can  
24 revisit that testimony.

25 BY MS. COLLESANO:

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1 Q. Was the decision by EY to terminate the SOW  
2 with Twitter related at all to the impact it could have  
3 on other Twitter business for Ernst & Young?

4 MR. KOFFMANN: Objection. Vague and  
5 foundation.

6 MS. VANDRUFF: You can answer the question,  
7 Mr. Roque.

8 THE WITNESS: From my understanding outside of  
9 the conversations with legal counsel, no.

10 BY MS. COLLESANO:

11 Q. Did you personally think that EY should  
12 terminate the SOW with Twitter?

13 MS. VANDRUFF: Objection.

14 You may answer the question to the extent that  
15 you understand it. Go ahead.

16 THE WITNESS: I personally had not actually  
17 made a decision one way or the other.

18 BY MS. COLLESANO:

19 Q. Mr. Roque, if you have access to the Agile Law  
20 platform, I'm going to show you a document.

21 A. Let me just check. The iPad had password timed  
22 out. Yep, okay.

23 Q. I'm marking an exhibit as Exhibit 1.

24 (Roque Deposition Exhibit Number 1 was marked  
25 for identification.)

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1 BY MS. COLLESANO:

2 Q. It's EY\_FTC\_0006925. Are you able to see that?

3 A. Do I need to click on something right now? All  
4 I see is sort of like a wooden table picture. Okay. I  
5 can see it now, yes.

6 Q. Great. Why don't you take a minute to look at  
7 the document and let me know when you are ready.

8 A. Okay. I have read the e-mail.

9 Q. So let's look at page 2. At the top there is  
10 an e-mail from you to Kailesh Karavadra. Who is  
11 Kailesh Karavadra?

12 A. His name is actually Kailesh.

13 Q. Kailesh. My apologies.

14 A. No worries. He is the global coordinating  
15 service partner for Twitter.

16 Q. What does that mean?

17 A. Most of our clients will have a term we call  
18 global coordinating service partner. It is an  
19 individual that is responsible for sort of managing the  
20 overall relationship with a particular organization as  
21 well as sort of bringing the whole suite of services  
22 our firm offers to a client if and when they need them.

23 Q. This e-mail is dated December 6, 2022, and you  
24 say, "they are update calls to share what we are seeing  
25 and as a group make a decision if we should continue to

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1 move forward with the work and issuance of our  
2 reports." What did you mean by this statement?

3 A. It was just a checkpoint. I had made a  
4 decision that based on all of the activities that were  
5 going on from a press standpoint in November, just to  
6 update management and explain to them where we were and  
7 what was going on so we could decide, you know, if we  
8 need to put any incremental risk procedures in place,  
9 ask further questions, just, you know, part of our  
10 process at Ernst & Young is to consult and try to make  
11 group decisions.

12 Q. You mentioned press statements in November.  
13 What kind of press statements were you seeing?

14 A. I mean, the Elon Musk trying to sneak office  
15 building, press statements about whether he was going  
16 to be required to buy the company or not, press  
17 statements about individuals getting terminated, press  
18 statements about the company requiring employees to  
19 return back to work, press statements about cafeteria  
20 workers suing for getting fired without cause, press  
21 statements about people sleeping in the offices. It's  
22 just the host of everything that was going on in  
23 November and December.

24 Q. So these things made you concerned about moving  
25 forward with the order assessment?

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1 MS. VANDRUFF: Objection. Leading.

2 You may answer the question.

3 THE WITNESS: There was just so much activity  
4 going on, I thought it warranted providing our  
5 executive team with an update. As you can imagine,  
6 there was -- people just said "what's going on out  
7 there? We are seeing all this stuff in the press."

8 BY MS. COLLESANO:

9 Q. At that time did you think EY shouldn't move  
10 forward with the work and the reports?

11 MS. VANDRUFF: Objection. Calls for  
12 speculation.

13 You may answer the question.

14 THE WITNESS: I didn't have a conclusion. That  
15 was, I guess, part of the reason for setting up the  
16 call, was to elicit feedback from everybody and make  
17 sure we were all thinking about this in the right way.

18 BY MS. COLLESANO:

19 Q. If we turn back to the first page --

20 A. I'm sorry, the document I'm seeing only has one  
21 page. Oh, yes, I'm sorry. I didn't realize there was  
22 a second page. So which page would you like me to be  
23 on, 1 or 2?

24 Q. I apologize. Actually, I have one more  
25 question about page 2.

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1 A. Okay.

2 Q. You say "the issuance of our reports." Was  
3 there more than one Twitter project you were  
4 referencing here?

5 A. Yes, that's correct. We had the findings or  
6 the readiness assessment report, and then the second  
7 report would have been the FTC assessor report that  
8 would have been issued in July of 2023.

9 Q. Thank you. And on the first page Kailesh  
10 responds to your e-mail, and at the end of that message  
11 he says, Just thought I would share in case we want to  
12 hold off on this call until we have new information to  
13 help us make the decision. What did you understand him  
14 to mean by that?

15 MS. VANDRUFF: Objection. Lack of foundation.  
16 You may answer the question, Mr. Roque.

17 THE WITNESS: I guess I don't want to speak on  
18 his behalf. How I interpreted the message is that did  
19 having a meeting for the sake of having a meeting make  
20 sense until we had, I guess, more specificity at that  
21 time about certain aspects of what was going on with  
22 the company.

23 BY MS. COLLESANO:

24 Q. What decision was he referring to there?

25 MS. VANDRUFF: Objection. Lack of foundation.



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1           You may answer the question, Mr. Roque.

2           THE WITNESS: I believe it was just how do we  
3   want to continue to proceed with supporting the company  
4   and our various services.

5           BY MS. COLLESANO:

6           Q. Your various services to Twitter?

7           A. Yes.

8           Q. You said you were referring to the readiness  
9   assessment and the order assessment. Were there any  
10   other Twitter projects that Kailesh was managing?

11          A. Kailesh doesn't directly manage any projects  
12   that I'm aware of. He sort of -- the global  
13   coordinating service partner tends to be more of an  
14   executive role that oversees everything occurring at  
15   the client. It doesn't necessarily mean that  
16   individual is executing engagements specifically  
17   himself or herself.

18          Q. Were you aware of other Twitter work that EY  
19   had at that time aside from the readiness assessment  
20   and the order assessment?

21          A. Yes. I believe there was an outstanding  
22   service organization control report engagement, and I  
23   believe there was tax services being provided to the  
24   client.

25          Q. Can you repeat that? What was that?

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1           A. There was also some tax services being provided  
2   to the client.

3           Q. Do you know anything about the scope of the tax  
4   services that EY was providing to Twitter?

5           A. I don't.

6           MS. VANDRUFF: Objection. Lack of foundation.

7           THE WITNESS: Sorry, I don't.

8           BY MS. COLLESANO:

9           Q. If we move to the top of the first page, you  
10   respond to Kailesh and say, "Kailesh they are pushing  
11   us hard to issue one of our reports this week." What  
12   do you mean by that statement?

13          A. The company was requesting us to try and  
14   finalize our readiness assessment report.

15          Q. Twitter was asking you to finalize it?

16          A. That's correct.

17          Q. Then you mention the meeting is to update  
18   Frank. Do you mean Frank Mahoney?

19          A. That is correct.

20          Q. Why would Frank and his team be involved here  
21   about whether to issue a report?

22          MS. VANDRUFF: Objection. Lack of foundation.  
23   Vague.

24          You can answer the question.

25          THE WITNESS: Just knowing the environment with

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1 the level of publicity going on with Twitter, there was  
2 a general request to make sure people were being  
3 updated about where we stood with the services, as I  
4 said, outstanding invoice payments and other general  
5 information.

6 BY MS. COLLESANO:

7 Q. Because of all the press reports that you  
8 mentioned earlier, EY wanted to have more management  
9 oversight of Twitter projects at EY?

10 A. That's correct.

11 Q. Had this happened in the past with any other  
12 Twitter projects?

13 A. No. At least the ones I worked on, I'm not  
14 aware of anything.

15 Q. When you mentioned the unpaid invoices, what  
16 projects were those related to?

17 A. The system organization or the SOC 2 report had  
18 an outstanding invoice. And there was outstanding  
19 invoices related to our readiness review work. And  
20 then there was an outstanding invoice related to our  
21 efforts to respond to an FTC request for information  
22 back in September related to the Mudge event.

23 Our statements of work allowed us to charge the  
24 client if we ended up in a situation where we had to  
25 respond or spend any efforts for regulatory

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1 requirements.

2 Q. Do you know how much -- what the outstanding  
3 balance was on the SOC 2 payments?

4 A. I believe that one was around \$50,000.

5 Q. And the readiness assessment?

6 A. I believe the remaining balance would have been  
7 split about 50/50 between the readiness assessment and  
8 the incremental work to respond to the FTC request back  
9 in September.

10 Q. So if -- what was the total for both of them?

11 A. I would have to go and look at the specific  
12 invoice amount.

13 Q. Do you know if all those invoices were paid in  
14 full by Twitter?

15 A. They were.

16 Q. Do you know how late they were?

17 A. They were paid the last week of February or the  
18 first week of March of 2023.

19 Q. Did Frank and his team usually need to approve  
20 any report that was issued?

21 MS. VANDRUFF: Objection. Lack of foundation.

22 You may answer the question.

23 THE WITNESS: Frank, no. It depends -- it  
24 would depend on the type of report we are issuing for  
25 any client may or may not require various approvals.

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1 BY MS. COLLESANO:

2 Q. Was the full payment on these outstanding  
3 invoices made after EY decided to terminate?

4 A. I believe it was.

5 Q. Was it made after the decision to terminate had  
6 been relayed to Twitter?

7 A. I would have to go back and check the date the  
8 payment came in.

9 Q. I'm going to reveal another document.

10 (Roque Deposition Exhibit Number 2 was marked  
11 for identification.)

12 BY MS. COLLESANO:

13 Q. This is marked EY\_FTC\_0006959. If you are able  
14 to see that, I'll give you a moment to take a look.

15 MS. VANDRUFF: Mr. Roque, this also has several  
16 pages.

17 THE WITNESS: Yep, I'm hip to it now. Okay.

18 BY MS. COLLESANO:

19 Q. So again, if we can start on the second page,  
20 which is the first e-mail in the chain?

21 A. The one that starts with "Hi, team"?

22 Q. Lower down, the one February 1st at 2:23 p.m.  
23 from Kailesh. Yes, well, there are two Hi, teams.

24 A. Sorry. The one that says "hope you and family  
25 are well. May I suggest"?

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1 Q. Yes. So Kailesh sent this e-mail to a number  
2 of people in the "to" line. Who is Susan Meyer?

3 A. Susan Meyer was head of our risk  
4 management team.

5 Q. And Alex Bender?

6 A. Alex Bender is the center lead for technology.  
7 So driving growth in business for that sector in the  
8 west.

9 Q. And Kristin Valente?

10 A. She is head of sales and marketing, more or  
11 less, for the west area.

12 Q. I think we've already mentioned Frank and Geoff  
13 Beatty. You said that Susan Meyer was the risk  
14 management team head. Is the risk management team an  
15 internal-facing team that's responsible for EY's risk  
16 or the head of the team that advises clients on risk?

17 A. No, an internal role.

18 Q. This e-mail is dated February 1st, and Kailesh  
19 says, "may I suggest" -- I'm sorry, the subject is  
20 Twitter Client Continuance Discussion. What does that  
21 mean?

22 A. Our firm has a process that any time there is a  
23 significant change in leadership at an executive level  
24 or an acquisition that take place, that we are required  
25 to re-execute our client acceptance. Since Twitter was

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1 already a client, they called it client continuance.

2 So continue to have our firm's approval that this is an  
3 entity we want to continue to do work with.

4 Q. So it's an internal decision about whether to  
5 continue an existing agreement with a client?

6 A. It's not an existing agreement. It's more of  
7 is this an entity that we want to do business with in  
8 general.

9 Q. All right. So whether EY wants to continue to  
10 do business with Twitter on anything?

11 A. In the context of the leadership change that  
12 took place in November, yes. We do this for any client  
13 that we would provide services to.

14 Q. What level of change would initiate this client  
15 continuance procedure?

16 A. As I had previously communicated, sorry if it  
17 got lost, if there is a significant change in executive  
18 leadership at any new or existing clients, our firm's  
19 policy is that we re-perform client acceptance.

20 Q. And client acceptance is a process you do when  
21 you are considering any agreement with any company in  
22 the first instance?

23 A. Before we would move into any agreement, you  
24 have to complete client continuance. So is this a  
25 client we would even want to do business with to begin

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1 with.

2 Q. Kailesh says, "May I suggest we get on a call  
3 to discuss live our options and summary sometime this  
4 week." What are the options and summary that he's  
5 referencing?

6 MS. VANDRUFF: Objection. Lack of foundation.  
7 You may answer the question.

8 THE WITNESS: My recollection of the discussion  
9 was more he was trying to figure out how to respond to  
10 some of the questions that need to be addressed in the  
11 client continuance process.

12 BY MS. COLLESANO:

13 Q. So he wanted information from you about some of  
14 the factual information about the client?

15 MS. VANDRUFF: Mr. Roque, I'm just going to  
16 caution you, because I wasn't present at those  
17 meetings, but to the extent that any of those meetings  
18 involved counsel, I would just caution you not to  
19 respond to counsel's questions with any attorney-client  
20 communications that may have taken place with  
21 Mr. Kailesh.

22 THE WITNESS: Can I have a clarification there?  
23 I lost track of the specific question again.

24 BY MS. COLLESANO:

25 Q. Sure. I was just asking what -- Kailesh



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1 forwarded this e-mail to you or sent this e-mail to  
2 you, and I'm asking what he was thinking then when he  
3 "said discuss our options and summary." What are the  
4 options and summary he is referring to?

5 MS. VANDRUFF: Objection. Calls for  
6 speculation.

7 You may answer the question, again, with a  
8 caution about attorney-client privilege.

9 THE WITNESS: I think I heard -- maybe Daniel,  
10 did you try to say something as well?

11 MR. KOFFMANN: I was just joining in your  
12 lawyer's objections.

13 THE WITNESS: Okay. What Kailesh was trying to  
14 understand is what were our options to move forward,  
15 because at the time the company was requesting Ernst &  
16 Young to assist them with some tax services. We could  
17 not enter into agreement, per our firm policy, to  
18 provide them with a statement of work until client  
19 continuance had been completed. So he was trying to  
20 make sure he had a clear understanding of our internal  
21 processes and sort of what decisions need to be made or  
22 how they could be made so we could -- he could move  
23 forward with providing Twitter with the statement of  
24 work for tax services.

25 BY MS. COLLESANO:

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1 Q. So he's trying to see whether EY can get a new  
2 agreement with Twitter related to tax services?

3 A. That's correct.

4 Q. And did that agreement -- that agreement for  
5 tax services ultimately went forward?

6 A. I know they submitted a statement of work. I  
7 don't know if Ernst & Young was ultimately selected to  
8 do that work.

9 Q. So EY submitted a statement of work to Twitter  
10 for the tax services?

11 A. Yes.

12 Q. Do you know when that happened?

13 A. I don't. The tax stuff is not part of my  
14 responsibilities or I'm involved with. So I just stay  
15 out of it.

16 Q. Based on this e-mail, would it have been after  
17 February 1st?

18 A. Yes. As I explained, per policy, he wouldn't  
19 have been able to provide that statement of work until  
20 the client's continuance process was completed.

21 Q. So your view of this e-mail is that Kailesh is  
22 discussing the potential for tax services to be  
23 provided to Twitter by EY. Not relating to the order  
24 assessment statement of work?

25 MS. VANDRUFF: Objection. Lack of foundation.

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1           You may answer the question.

2           THE WITNESS: Yes. If I'm remembering this  
3 call correctly, that was the intent of the call itself.  
4 It had nothing to do with the FTC consent order.

5           BY MS. COLLESANO:

6           Q. I'm going to show you another document.  
7           (Roque Deposition Exhibit Number 3 was marked  
8 for identification.)

9           BY MS. COLLESANO:

10          Q. This is marked EY\_FTC\_0002620. I'll give you a  
11 moment to take a look at it.

12          A. I see it has two pages. Just confirming when I  
13 flip to page 2, I don't see any information on there.  
14 There's just sort of the end of the message says "learn  
15 more" and "meeting options", underlined; is that  
16 correct?

17          Q. Yes, that's what I see as well.

18          A. Okay. Yes, I have looked at the e-mail.

19          Q. So this is a calendar invite that you sent to  
20 Brian Lynch and Paul Penler on February 6, 2023; is  
21 that correct?

22          A. That is correct.

23          Q. Who is Brian Lynch?

24          A. I don't know his title off the top of my head,  
25 but he works with our independence team.

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1 Q. What is the independence team?

2 A. It's a group of internal individuals that help  
3 make sure our firm is managing all the requirements  
4 from independence that we need to comply with from SEC  
5 and other professional standards.

6 Q. Who is Paul Penler?

7 A. Paul Penler is from our professional practice  
8 group. It's also another internal group that's  
9 responsible for interpreting and helping teams  
10 adequately follow professional standards.

11 Q. So the notes in this meeting invite are talking  
12 again about client continuance, and you say, "Frank  
13 Mahoney requested that I research if there is anything  
14 from a management integrity and ethics standpoint  
15 relative to our professional obligations that would  
16 prevent EY from continuing its current FTC consent  
17 order engagement." What did you mean when you wrote  
18 that?

19 A. During one of our calls, as we were going  
20 through client continuance, Frank asked that question,  
21 and I was just following up on his request.

22 Q. What does management integrity refer to?

23 A. It's a defined term in the professional  
24 standards, do we have any questions about the integrity  
25 of management itself.

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1 Q. At the company that you would be working with?

2 A. Correct.

3 Q. I'm sorry, were you going to say something  
4 else? Did I interrupt you?

5 A. No, you didn't. I apologize if I answered too  
6 quickly.

7 Q. And what about ethics in this context, is that  
8 a defined term as well?

9 A. It is. If you look at the professional  
10 standards, one of the requirements is that we need to  
11 assess in the integrity of management or at least make  
12 a determination if there's anything that we've seen or  
13 become aware of that would cause us to question the  
14 integrity of management and then from that make a  
15 determination if, you know, there are services that  
16 should or should not be provided or maybe we need to  
17 adjust our procedures for incremental risk. It just  
18 depends on the team, the engagement and what we are  
19 intending to do.

20 Q. So in this instance, how did you research these  
21 two issues?

22 A. We had a discussion with Brian on the call.

23 Q. Do you recall what happened on that call? What  
24 did Brian tell you?

25 A. Yes. He replied back that he was not aware of

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1 anything specifically within the standards themselves  
2 as part of client continuance that would have an  
3 impact.

4 Q. So he thought it was okay to continue with  
5 Twitter as a client?

6 MS. VANDRUFF: Objection. Lack of foundation.  
7 You may answer the question.

8 THE WITNESS: He didn't -- he actually didn't  
9 draw a conclusion if we could move forward with Twitter  
10 as a client. All he just said was there is nothing  
11 specific within the standards that he was aware of  
12 based on the question Frank had asked us to follow up  
13 with him. So that's -- we were able to take that back  
14 to Frank and say we did what you asked us to do, and  
15 there was nothing specifically in the standard that was  
16 on that topic.

17 BY MS. COLLESANO:

18 Q. So in his view there was nothing preventing EY  
19 from continuing to have Twitter as a client?

20 A. Not for that specific item.

21 MS. VANDRUFF: Anne, can I ask to pause for one  
22 moment. I apologize. It's unrelated.

23 (Pause in the proceedings.)

24 (The record was read as requested.)

25 BY MS. COLLESANO:

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1 Q. So your answer to the last question, you are  
2 just saying this wasn't a reason to no longer have  
3 Twitter as a client, but potentially there were other  
4 reasons?

5 A. That's correct.

6 Q. What were those other potential reasons?

7 A. In the client continuance process itself, it  
8 asks a whole series of various questions. Any of those  
9 questions could trigger a reason not to accept a  
10 client.

11 Q. So you are saying Brian Lynch could only speak  
12 to the management integrity and ethics piece of that  
13 longer client continuance discussion?

14 A. Correct. We were following up, as I said  
15 earlier, on a very specific request for Frank to just  
16 check this one item, and that's all we were doing.

17 Q. Why did you think Frank wanted you to check  
18 this item?

19 MS. VANDRUFF: Objection. Lacks foundation.  
20 You can answer the question.

21 THE WITNESS: I'm not sure I know why he asked  
22 for this to be checked. He asked for it, so I did it.

23 BY MS. COLLESANO:

24 Q. When you say the client continuance procedures  
25 involves a whole list of items to consider and that the

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1 ethics and management integrity were just one part, can  
2 you recall any of the other items?

3 A. I would have to go and open the client  
4 continuance process. I haven't had to do that in a  
5 while. One item I know that occurs is we do a full  
6 background check on all the executives. So you could  
7 have results that come back from the background check  
8 that says, hey, one of the executives was a previous  
9 felon. That would be a piece of information we would  
10 use in drawing a conclusion is this a client we want to  
11 have. It, in and of itself, is not a yes-or-no factor.  
12 It's not black and white.

13 Q. Do you recall any other items?

14 A. I would have to go and pull up the checklist  
15 and look at all of them.

16 Q. Was the background check done here on the  
17 management executives?

18 A. It was.

19 Q. Was there anything concerning?

20 A. I was not copied on the results of that it. I  
21 don't know what was in it.

22 Q. I'm going to reveal another document. This is  
23 EY\_FTC\_0006962. If you want to take a moment to review  
24 the document.

25 (Roque Deposition Exhibit Number 4 was marked



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1 for identification.)

2 MR. KOFFMANN: Counsel, looks like the exhibit  
3 stamp is covering up part of the e-mail. So you might  
4 just want to move that to the top.

5 MS. COLLESANO: I apologize. Is that better?

6 MR. KOFFMANN: Yes.

7 MS. VANDRUFF: Thank you, Dan. Thanks, Anne.

8 THE WITNESS: Okay.

9 BY MS. COLLESANO:

10 Q. So let's look at the bottom of page 1. There  
11 is an e-mail from you to several people on February 6,  
12 2023, at 9:00 p.m. Who is Bridget Neill?

13 A. She is part of our internal communications  
14 team.

15 Q. What does that team do?

16 A. They manage external communications on behalf  
17 of Ernst & Young.

18 Q. How about Shauna Steele, who is that?

19 A. I'm not familiar with her. I don't know. I  
20 assume it's somebody that works on Bridget's team.

21 Q. You say in your e-mail that Paul Penler  
22 suggested you reach out to them about services to the  
23 FTC if our consent order issued to Twitter. You say,  
24 "We wanted to obtain your thoughts as we work with area  
25 leadership in executing this engagement and implement

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1 any additional risk mitigation consideration as  
2 appropriate." What did you mean there?

3 A. That the intent was, as I have shared  
4 previously, we try not to operate in a vacuum, and so  
5 we leverage all the resources we have within the firm.  
6 As part of the communications team, that group is a  
7 little bit more well versed in sort of, I don't know,  
8 what's transpiring and the different political views  
9 that are taking place, what are the trends and thoughts  
10 that are occurring, and knowing the publicity that was  
11 surrounding Twitter and what this scope of service was,  
12 we were just saying, hey, as we start executing this  
13 opportunity, is there additional things or procedures  
14 that we should be doing to make sure that we're  
15 adequately performing services in the best way we can.

16 Q. What advice did they provide you?

17 A. I don't know that they gave any advice that I  
18 remember that resulted in any incremental procedure  
19 that we were going to the execute.

20 Q. When you say "implement any additional risk  
21 mitigation consideration," what did you mean by that?

22 A. As I was just sharing, it would be is there an  
23 extra set of procedures we need to execute on the  
24 engagement? Do I need to perhaps include an extra  
25 representation in our management representation letter

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1 we would have had management sign? Should I be asking  
2 for meetings in a different way? It could entail a  
3 hole host of potential options.

4 Q. I guess I'm just confused why the external  
5 communications team would provide risk mitigation  
6 consideration. I'm just not understanding that.

7 MS. VANDRUFF: Is there a question, counsel?

8 BY MS. COLLESANO:

9 Q. Why would the external communications team be  
10 providing risk mitigation consideration?

11 MS. VANDRUFF: Can you answer the question?

12 THE WITNESS: Yeah, I mean, it is an unusual  
13 group, but this was an unusual examination that was  
14 involved at a level of media attention that we don't  
15 usually have with many of our clients. So it was, for  
16 what they do from an external communications  
17 standpoint, was there anything that we should be  
18 considering the way we operate this engagement? Was  
19 there a risk that we, as a team, had not considered  
20 that they might have a perspective, putting a different  
21 lens on it.

22 BY MS. COLLESANO:

23 Q. Thank you. You also end up adding John  
24 Hallmark to this e-mail chain. Who is John Hallmark?

25 A. He works with Bridget. I think she was not --

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1 if I remember correctly, she was not sure she would be  
2 able to attend, and if he could attend in her place.

3 Q. I'm going to show you another document.

4 MS. VANDRUFF: Anne, if this is a good place,  
5 maybe we could take a short break for lunch.

6 (Discussion off the record.)

7 (Whereupon, at 2:58 p.m., Eastern, a lunch  
8 recess was taken.)

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1 AFTERNOON SESSION

2 (3:36 p.m.)

3 BY MS. COLLESANO:

4 Q. I'm going to reveal another document.

5 (Roque Deposition Exhibit Number 5 was marked  
6 for identification.)

7 Q. This is EY\_FTC\_0002730.

8 A. Yep, it's up.

9 Q. So take a look and let me know when you are  
10 ready.

11 A. I'm all set.

12 Q. Great. So this is an e-mail from you to Paul  
13 Penler on February 14th at -- February 14, 2023; is  
14 that correct?

15 A. I think so. The date is a little -- there it  
16 is. Yes, I can see the date now.

17 Q. It's labeled Options -- the subject line is  
18 Options. Who asked you to lay out these options?

19 MS. VANDRUFF: Objection. Lack of foundation.  
20 You may answer the question.

21 THE WITNESS: There was just -- the options  
22 were asked to be laid out by the group based on the  
23 discussions we were having in -- starting in February,  
24 about where we were and just thinking through, I guess,  
25 pros and cons.

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1 BY MS. COLLESANO:

2 Q. You say that this is a feeble attempt. What do  
3 you mean by that?

4 A. Oh, I just quickly jotted it down to get  
5 something back and moving on for people to start giving  
6 perspective on. So all told, maybe not my best work  
7 ever produced.

8 Q. Did you have an opinion on which option was  
9 best here?

10 A. I didn't. As I said, there's pros and cons of  
11 each.

12 Q. So it says Option I - we do not issue the  
13 report. And you say at number 2, "EY does not believe  
14 Twitter is currently ready for EY to come onsite and  
15 begin its field work procedures. We simply cannot do  
16 the work." What did you mean there?

17 MS. VANDRUFF: Objection. The document speaks  
18 for itself.

19 You may answer the question.

20 THE WITNESS: Just as I have shared with you  
21 previously, in February we had concerns of whether or  
22 not we could execute the work, and Twitter had been  
23 letting us know that they were not ready for us to come  
24 onsite.

25 BY MS. COLLESANO:

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1 Q. So Twitter's lack of preparedness was  
2 preventing EY from doing its assessment?

3 A. I don't know if they were prepared or not. I  
4 don't think they had -- my understanding was they  
5 didn't have adequate resources to facilitate the audit.

6 Q. And that lack of resources was preventing you  
7 from doing your assessment, correct?

8 MS. VANDRUFF: Objection. Mischaracterizes  
9 testimony.

10 You may answer the question.

11 THE WITNESS: It was a potential inhibitor for  
12 us to be able to do our work efficiently.

13 BY MS. COLLESANO:

14 Q. Or to do the work at all, correct?

15 A. That could have been a possibility, but since  
16 we didn't really begin, I don't know.

17 Q. Number 3 you say, "Twitter has indicated they  
18 cannot accommodate EY to begin its procedures until  
19 mid-March. It is unlikely EY will be able to complete  
20 the scope of work by the end of May." What did you  
21 mean?

22 MS. VANDRUFF: Objection. The document speaks  
23 for itself.

24 You can answer the question.

25 THE WITNESS: Exactly as written, the day we

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1     were told we were aiming for to come onsite, based on  
2     Twitter, was March 15th. And in that time frame, there  
3     was -- based on my experience, there was a question of  
4     whether we would be able to complete the totality of  
5     the work in two and a half months.

6             BY MS. COLLESANO:

7             Q. So Twitter was preventing you from completing  
8     the assessment by the order deadline?

9             A. It was a consideration. Since we didn't  
10    execute the work, I don't know if it would have been  
11    achievable or not. The results would have occurred if  
12    we moved forward, but it was just an item we were  
13    evaluating.

14            Q. At number 4 you say, "Twitter appears to be  
15    resource constrained." What did you mean by that?

16            MS. VANDRUFF: Objection.

17            THE WITNESS: From our conversation, our weekly  
18    conversations, my understanding is they appeared to be  
19    resource constrained.

20            BY MS. COLLESANO:

21            Q. Lack of money? Lack of people? Lack of --  
22    what was lacking?

23            A. Sorry, resources specifically to people.

24            Q. Number 5 says, "Based on information provided  
25    to date, the report is likely to have numerous



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1 findings." What does it mean to have numerous  
2 findings?

3 A. There was a possibility of control gaps or  
4 controls not operating.

5 Q. Why would that be a consideration to not issue  
6 the report?

7 MS. VANDRUFF: Objection. Lack of foundation.  
8 You can answer.

9 THE WITNESS: I don't think it was -- I see how  
10 you are tying it together. I don't know that it was a  
11 consideration not to issue the report. It was just a  
12 potential factor. At some point, if there was too many  
13 findings, sort of like is there value in issuing the  
14 report.

15 BY MS. COLLESANO:

16 Q. You are saying if you thought there would be a  
17 lot of gaps in the report, there wouldn't be any merit  
18 in completing the assessment and issuing the report?

19 MS. VANDRUFF: Objection. Mischaracterizes  
20 testimony.

21 You may answer the question.

22 THE WITNESS: The question -- well, we didn't  
23 do any of the work. So all of this is premised on  
24 what-if scenarios. And at some point, in the  
25 worst-case scenario, we were finding a lot of issues,

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1 it would be do we stop and have a group discussion with  
2 the client that says how would you like us to continue?  
3 How much time and energy and resources do you want to  
4 spend with us and internally to continue to come up  
5 with the totality of all the results? Or are we at a  
6 point where there's a potential outcome known earlier  
7 than later?

8 BY MS. COLLESANO:

9 Q. Is that the type of conversation you have with  
10 the client if it looks like there are going to be a lot  
11 of findings in a report?

12 A. We can have those conversations.

13 Q. I know you say that this is a what-if scenario  
14 because you hadn't started the order assessment work.  
15 But you had done a lot of work on the order -- on the  
16 readiness assessment, correct?

17 MS. VANDRUFF: Objection. Vague.

18 You may answer the question.

19 THE WITNESS: I guess I'm not sure I know what  
20 your threshold is for a lot of work. We executed --

21 BY MS. COLLESANO:

22 Q. I'm sorry. Go ahead.

23 A. We executed some procedures.

24 Q. Had you examined the majority of the controls?

25 A. No.

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1 MS. VANDRUFF: Objection. Vague.

2 THE WITNESS: Sorry. No, we only assessed a  
3 subset of the controls for the readiness review.

4 BY MS. COLLESANO:

5 Q. Was it more than half of the controls?

6 A. I would have to get the breakdown. I don't  
7 believe it was more than half. We were only primarily  
8 focused on the privacy controls.

9 Q. You say that this is just a what-if scenario,  
10 but this says based on information provided to date,  
11 it's likely to have numerous findings. Then what  
12 information were you basing this on?

13 A. The risk and control matrix that the client  
14 finally provided on January 31st that indicated there  
15 were still controls that didn't have control owners  
16 assigned.

17 Q. And that information led you to believe there  
18 would be other issues as well?

19 MS. VANDRUFF: Objection. Leading.

20 You may answer the question.

21 THE WITNESS: It was just a factor for  
22 consideration. Usually when you have a new control  
23 owner, based on my experience, providing similar  
24 services, there is a higher likelihood of findings to  
25 occur.

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1 BY MS. COLLESANO:

2 Q. What do you mean by findings?

3 A. I would treat -- the control wasn't designed  
4 correctly. The control wasn't operating as it was  
5 intended. There wasn't evidence captured to determine  
6 that the procedures had actually been executed based on  
7 the control. Those are all the findings or exceptions.

8 Q. So a finding would indicate that something was  
9 not operating properly?

10 A. Usually, yes.

11 Q. Then you also mentioned exceptions. What does  
12 that mean in relation to a finding? What is the  
13 difference?

14 A. I'm using them interchangeably.

15 Q. So an exception or a finding could be the same  
16 thing?

17 A. Correct.

18 Q. Based on the information you had at that point,  
19 what did you believe the scale of the control gaps was?

20 MS. VANDRUFF: Objection. Vague.

21 You may answer the question.

22 THE WITNESS: We didn't do any work, so I  
23 didn't have any findings at that point.

24 BY MS. COLLESANO:

25 Q. I understand there weren't findings, but the

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1 lack of control -- the control gaps that you mentioned  
2 earlier, what were they of the scale of?

3 MS. VANDRUFF: Objection. Vague. And lack of  
4 foundation.

5 You may answer the question.

6 THE WITNESS: My explanation earlier wasn't  
7 specific to Twitter. You were asking a broad question  
8 about what, like, a control gap could be or what an  
9 exception was or what a finding was. I was providing a  
10 general overview of what that might entail in any  
11 client environment.

12 BY MS. COLLESANO:

13 Q. Okay. Number 6 says, "If we do resign, will  
14 need to develop communication message to Twitter."  
15 What does that mean?

16 A. We would need to inform them that we were  
17 resigning.

18 Q. And what is a communication message, in your  
19 view?

20 A. It would be putting in writing based on our  
21 contractual obligation to inform them that we were  
22 terminating the agreement.

23 Q. Anything else?

24 A. No.

25 Q. For Option I - Risks, you say, "Although there

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1 is an impact to potential business, impact to  
2 reputation risk is preserved." What does that mean?

3 MS. VANDRUFF: Objection. Lack of foundation.  
4 The document speaks for itself.

5 You may answer the question.

6 THE WITNESS: It was intended to say there is a  
7 risk if we resign. It may not sit well with Twitter,  
8 and they would make a business decision to potentially  
9 not use Ernst & Young for other services.

10 BY MS. COLLESANO:

11 Q. What about impact to reputation risk is  
12 preserved, what does that mean?

13 MS. VANDRUFF: Objection.

14 You can answer.

15 THE WITNESS: If we don't do the work, there is  
16 a potential for less impact for Ernst & Young to be  
17 associated with the report.

18 BY MS. COLLESANO:

19 Q. You are saying it would be better for Ernst &  
20 Young to not be associated with a report about Twitter?

21 A. I didn't say that. I said there was a  
22 possibility that there would be less publicity  
23 associated if we didn't ever issue a report.

24 Q. Option II is we issue the report. And you say  
25 at number 3, "EY will prepare a new SOW to further

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1 manage risk with incremental fees for work." What does  
2 that mean?

3 MS. VANDRUFF: Objection. The document speaks  
4 for itself.

5 You may answer the question.

6 THE WITNESS: As part of the process moving  
7 forward with this work we were going to enter into a  
8 new statement of work, because for all practical  
9 purposes, the statement of work we had entered into was  
10 with an organization that was different at the time.  
11 The executive management team that entered into the  
12 statement of work with us had all resigned, as we have  
13 discussed. We performed client continuance procedures.  
14 We finally got a control scope set January 31st that  
15 was very different. If we needed to move forward with  
16 supplementing our team with additional resources  
17 because of delays in timing, those are all variables  
18 that would warrant a change in the scope of our  
19 original statement of work.

20 BY MS. COLLESANO:

21 Q. Had you talked to Twitter at this point about  
22 potentially having a revised statement of work?

23 A. We had.

24 Q. What was the reaction?

25 A. They simply said they understood.

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1 Q. Did you take that to mean they would agree to a  
2 new statement or work or not?

3 A. I took it to mean they were most likely going  
4 to agree to a new statement of work.

5 Q. And that there would be -- this says  
6 incremental fees. So there would be additional fees  
7 for work provided under the revised statement of work?

8 A. Most likely, yes.

9 Q. Number 4 says, "EY will execute aggressing  
10 testing following our methodology and report all  
11 findings." What do you consider aggressive testing to  
12 be?

13 A. We would, at a minimum, test -- so for a  
14 transactional type of testing, at a minimum, we'd  
15 follow our methodology of 25 items. We might make a  
16 decision, based on the amount of change in the  
17 environment, that we would increase that to say on  
18 average a sample size of 40 instead of 25.

19 Q. So you would look at additional items for each  
20 control in the testing process?

21 A. Possibly. Since we didn't move forward with  
22 the engagement, we never got to that point of making a  
23 determination of sample sizes.

24 Q. You say report all findings. Wouldn't you  
25 always report all findings?



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1 A. Yes.

2 Q. So why is that specifically noted here?

3 A. That's just what I wrote at the time. There  
4 was -- we were going to do all of our testing and we  
5 were going to report all findings.

6 Q. Number 5 says, "Assuming the EY report has  
7 findings or significant findings should have less  
8 impact to firm after issuance." What is the difference  
9 between findings and significant findings?

10 A. This varies, the findings, in maybe the breadth  
11 of a particular finding could impact. And then so not  
12 all findings are equal. Some are very straightforward.  
13 Some are more significant.

14 Q. Could you give an example of what a potential  
15 finding versus a significant finding would be?

16 A. A finding might be there was a request for a  
17 new user to be added to a system, and it appears it  
18 wasn't documented or the approval to get the access  
19 wasn't documented. A more significant finding would be  
20 using the example of 40 new user access requests and  
21 all 40 didn't have approvals for access.

22 Q. So it could be severity or scale of an issue  
23 could determine whether something was a finding or a  
24 significant finding?

25 A. Yes.

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1 Q. You say this should have less impact to firm  
2 after issuance. What does that mean?

3 A. If the report included a substantial amount of  
4 findings, whatever substantial turned out to be,  
5 because that could be interpreted differently by every  
6 individual, it would be harder for an unknown entity,  
7 not having any context of this report, to turn around  
8 and say Ernst & Young didn't do a good job because look  
9 at all the findings.

10 Q. Then 6, "EY will further supplement its team  
11 and procedures with security and technical resources."  
12 What additional supplements were you contemplating?

13 A. There were specific procedures based on the  
14 call with the FTC in December that they wanted us to  
15 look at. And so those became very technical, and we  
16 would supplement the team as necessary to make sure we  
17 addressed all those increments or requests.

18 Q. Certain kinds of testing you mean?

19 A. Correct.

20 Q. It says Option II - Risks, number 1, "The FTC  
21 uses the EY report as evidence against Twitter and  
22 impacts potential business." What did you think the  
23 impact of potential business would be?

24 A. As I expressed earlier, Twitter might be upset  
25 with the results, and they could say we don't

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1 appreciate the results from Ernst & Young and we are no  
2 longer doing business with you. But that's likely with  
3 any report we issue for any client.

4 Q. Number 2 you say, "Negative press from Twitter  
5 if a negative report is issued." What do you mean by a  
6 negative report?

7 A. If the report has less than an unqualified  
8 opinion, that would be considered a negative report.

9 Q. What does less than an unqualified opinion  
10 mean?

11 A. So in order to provide this service, Ernst &  
12 Young has made a decision that our reports will be  
13 produced under the AICPA attestation standards.  
14 There's a level of assurance and an opinion that goes  
15 with that. In the accounting world, and I'm sorry if  
16 any of this doesn't make sense and you need me to  
17 clarify, there is different levels of assurance for  
18 different types of reports. So you could have an  
19 unqualified opinion, although it sounds contrary,  
20 meaning everything is good and clean; we didn't really  
21 have any problems. You can have a qualified opinion.  
22 And then there's a host of other types of opinions as  
23 well that are usually less favorable to a client.

24 Q. Is the unqualified opinion that is less  
25 favorable to a client?

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1           A. No. The unqualified opinion is the most  
2 favorable to a client. It's contrary. It sounds like  
3 it's not good because of the "un," but unqualified  
4 basically says, for the most part, you have either a  
5 completely clean report or you had a clean report that  
6 generally everything was operating well.

7           Q. Unqualified like no caveats, everything is  
8 good?

9           A. Correct.

10          Q. And then negative press from Twitter, were you  
11 concerned that they would say negative things about EY?

12          A. Potentially.

13          Q. Number 3 says, "Report leaks and is made  
14 publicly available, EY a 'negative' report is  
15 misunderstood." And negative is in quotes. What does  
16 that mean?

17               MS. VANDRUFF: Objection. Vague.

18               You may answer the question.

19               THE WITNESS: If the results -- if we had done  
20 the work and the results had -- I'll just go back to  
21 our previous conversation, a significant amount of  
22 findings, that would be potentially considered a  
23 negative report. And people don't always understand --  
24 or the work we perform is often misconstrued and not  
25 understood, and so it could be misinterpreted in the

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1 press.

2 BY MS. COLLESANO:

3 Q. How is it generally misunderstood? What was  
4 the concern here?

5 MS. VANDRUFF: Objection. Compound.

6 You may answer the question.

7 THE WITNESS: It just depends on who is using  
8 the report, but my personal experience is that there's  
9 an expectation or understanding gap between the  
10 professional standards and what people believe the  
11 auditors are supposed to do.

12 BY MS. COLLESANO:

13 Q. Can you elaborate on what you mean by that?

14 A. Yes. In which part?

15 Q. The gap between understanding of what the  
16 auditors do and what they are supposed to do.

17 A. Sure, I'll give you an example. My mom thinks  
18 I do tax work because I work at Ernst & Young. And I  
19 keep telling her I don't do tax work, but her  
20 understanding and expectation is I do tax work because  
21 I work at Ernst & Young. There's a misunderstanding  
22 fundamentally of what I do and how I do it even with my  
23 mom.

24 Q. So you are concerned about a public  
25 misunderstanding of what the report says even though

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1 it's done in accordance with accepted principles in  
2 your field?

3 A. Correct.

4 Q. Number 4 says, "An incident or event occurs and  
5 EY 'missed' something in its procedures." What does  
6 that mean?

7 MS. VANDRUFF: Objection. The document speaks  
8 for itself.

9 You may answer the question.

10 THE WITNESS: You can do all the right  
11 procedures and you can do all the best things and you  
12 can think you've covered everything, but there is a  
13 possibility you missed something. And if we miss  
14 something, intentionally or unintentionally, and it  
15 came to light later, there's bound to be questions  
16 like, How was this missed?

17 BY MS. COLLESANO:

18 Q. How would you intentionally miss something?

19 A. Sorry, bad choice of words. We unintentionally  
20 miss something.

21 Q. So these risks listed in Option II, there are  
22 five of them, and they all -- why do they all relate to  
23 a negative report for Twitter?

24 MS. VANDRUFF: Objection. Mischaracterizes the  
25 testimony.

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1           You may answer the question.

2           THE WITNESS: I don't think that's how I would  
3 read them or that was the intent. For example, number  
4 3 is more of a negative item for EY and has not really  
5 anything to do with Twitter.

6           BY MS. COLLESANO:

7           Q. There are all discussed in the context of a  
8 negative report. Is there a reason for that?

9           A. No. It just -- I mean, as I said, in this  
10 whole thing, there's pros and cons. I mean, you could  
11 have an unqualified report, which could be a good  
12 report, but it still may have negative consequences.

13          Q. Is it fair that the issuance of a negative  
14 report was a concern for EY?

15          MS. VANDRUFF: Objection. Leading.

16          You may answer the question.

17          THE WITNESS: No. I mean, me personally, my  
18 obligation with my CPA license is to conduct the audit  
19 and report the results based on the procedures that I  
20 performed. I would never go into an engagement with a  
21 preconceived notion that my goal is to only produce a  
22 good report. A report is intended to be issued based  
23 on the results. That's foundational to the way the  
24 profession operates from an integrity and objectivity  
25 standpoint.

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1 BY MS. COLLESANO:

2 Q. I'm not saying you would go in there trying to  
3 have a certain agenda with how to issue a report. I'm  
4 asking whether these risk factors indicate that at this  
5 time EY was concerned about the likelihood of there  
6 being a negative report if EY completed this  
7 engagement.

8 A. It was one of many considerations. A negative  
9 report is -- has the potential to have a positive and  
10 negative outcomes, just as a positive report has a  
11 potential to have positive and negative outcomes.

12 Q. I'm going to show you another document that's  
13 marked EY\_FTC\_0006971.

14 (Roque Deposition Exhibit Number 6 was marked  
15 for identification.)

16 BY MS. COLLESANO:

17 Q. Let me know if you can see it and then take a  
18 moment to review.

19 A. Yes, I'm just looking at it right now.

20 Q. Great.

21 A. Okay.

22 Q. This is a chat between you and Paul Penler on  
23 February 14, 2023; is that correct?

24 A. Yes.

25 Q. On the second page of the document, the first



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1 page with the chat messages, the third message from the  
2 top, Mr. Penler says, We will have significant issues  
3 by resigning. What does he mean here?

4 MS. VANDRUFF: Objection. Lack of foundation.  
5 You may answer the question.

6 THE WITNESS: By resigning probably both  
7 Twitter and the FTC would not be happy with Ernst &  
8 Young.

9 BY MS. COLLESANO:

10 Q. If EY resigned from the order assessment?

11 A. Correct.

12 Q. So you think he means the significant issues  
13 are the FTC and Twitter being unhappy with EY?

14 A. Based on reading this e-mail, that's how I  
15 would read it, yes.

16 Q. Anything else you think he meant by it?

17 MS. VANDRUFF: Objection. Lack of foundation.  
18 You may answer the question.

19 THE WITNESS: I don't know -- no, that's all I  
20 would interpret by it.

21 BY MS. COLLESANO:

22 Q. Then it looks like you are talking about a  
23 document that refers to options, and you say, "to [sic]  
24 many cooks in the kitchen but hear you." What did you  
25 mean by this?

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1 MS. VANDRUFF: Could you give me the time  
2 stamp, Anne?

3 MS. COLLESANO: Sure. It's 11:22 p.m. It's  
4 actually the second 11:22 p.m.

5 MS. VANDRUFF: Thank you. I'm sorry, the  
6 question was what?

7 MS. COLLESANO: What did Mr. Roque mean by this  
8 statement?

9 MS. VANDRUFF: You may answer the question,  
10 Mr. Roque.

11 THE WITNESS: There was a lot of people with  
12 varying opinions going through the exercise of whether  
13 we would potentially resign or not, and if we did  
14 resign, what might we need to do differently than we  
15 were already planning for.

16 BY MS. COLLESANO:

17 Q. Were there people that wanted to resign and  
18 people who wanted to stay? Did they fall into two  
19 different groups?

20 A. I wouldn't say there was different groups. And  
21 I would -- it was more of a let's get all the ideas and  
22 perspectives. And people shared ideas, and those were  
23 evaluated pros and cons.

24 Q. I'm sorry, I think group was the wrong word.  
25 I'm just curious whether there were some people that

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1 thought going forward and doing the work was the right  
2 decision and some people thought that EY should resign.  
3 Is that fair?

4 MS. VANDRUFF: Anne, I'm going to instruct the  
5 witness not to answer because those were conversations  
6 that were -- that he's already testified included  
7 counsel. And so on the basis of privilege, I'm  
8 instructing Mr. Roque not to answer that question.

9 BY MS. COLLESANO:

10 Q. Did every -- go ahead. I'm sorry.

11 A. I was just going to say for the reporter, I  
12 have been instructed not to respond to that question.

13 Q. Did every conversation you had about the  
14 potential to terminate the SOW involve an attorney?

15 A. To the best of my recollection, yes.

16 Q. Is Mr. Penler an attorney?

17 A. He is not.

18 Q. So maybe there were some conversations  
19 informally where not -- that did not involve an  
20 attorney and considered this decision?

21 MS. VANDRUFF: Objection. Leading.

22 You may answer the question.

23 THE WITNESS: Yeah. Potentially, yes. There  
24 was a lot of stuff going on at the time.

25 BY MS. COLLESANO:

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1 Q. In informal conversations like this, did you  
2 hear from people who thought termination was the right  
3 idea?

4 MS. VANDRUFF: Anne, if you want to ask him  
5 about communications outside of any communications with  
6 counsel, I'll let him answer that question, but I need  
7 it to be more specific.

8 BY MS. COLLESANO:

9 Q. Did you have any communications, excluding  
10 communications you had involving counsel, did you have  
11 communications about whether it was the right decision  
12 to resign or not?

13 MS. VANDRUFF: Mr. Penler, if you can answer  
14 that question without revealing the communications that  
15 involved attorneys of Ernst & Young, you may answer the  
16 question. Otherwise, I am instructing you to not  
17 answer the question.

18 THE WITNESS: Mr. Roque.

19 MS. VANDRUFF: I'm so sorry, Mr. Roque. If you  
20 can answer the question without revealing the contents  
21 of communications with Ernst & Young attorneys. Do you  
22 need the court reporter to read it back for you?

23 THE WITNESS: No, I'm just trying to make sure  
24 I can think through if there were conversations where  
25 legal counsel was not present. I don't think there was

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1 any -- I think the conversations about that you asked,  
2 legal counsel was always involved.

3 BY MS. COLLESANO:

4 Q. So the next message, the first at 11:27 p.m.,  
5 Paul Penler says, "Kalesh [sic] special!" What did you  
6 understand Mr. Penler to mean here by that statement?

7 MS. VANDRUFF: Objection. Lack of foundation.  
8 You may answer.

9 THE WITNESS: It was a derogatory comment  
10 towards Kailesh.

11 BY MS. COLLESANO:

12 Q. What did it mean?

13 MS. VANDRUFF: Objection. Lack of foundation.  
14 You may answer.

15 THE WITNESS: Kailesh is a unique individual.

16 BY MS. COLLESANO:

17 Q. Is the reference to his uniqueness?

18 A. Correct.

19 Q. Farther down at 11:39 p.m., you write, "I think  
20 I am to the point where I just need this to end if it  
21 can." What did you mean?

22 A. I needed a final decision, are we going to do  
23 this work or not.

24 Q. You are not indicating you wanted the order  
25 assessment to end? You just wanted a decision about

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1 whether it would or not?

2 A. Yes, I just needed to know if I could move  
3 forward or -- not if. Are we moving forward to execute  
4 this work or are we not.

5 Q. What was happening in this interim period where  
6 EY had expected to be performing this assessment of  
7 Twitter but delays were preventing it from beginning  
8 the work? What were the team members doing instead?  
9 Was their time filled with other projects?

10 A. A combination. Some team members were rolled  
11 off and working on other projects. Some team members  
12 were filling their time in trying to move this  
13 engagement forward. We were trying to get what we call  
14 our PBC, prepared-by-client, or client assistance list  
15 pulled together. That would be used to facilitate  
16 interviews and discussions as part of our walk-through  
17 procedures, setting up timelines, creating the  
18 engagement file, you know, if we were going to move  
19 forward with the work. So there's some internal  
20 administrative stuff that needs to happen before we can  
21 actually begin the field work.

22 Q. If the assessment was going to move forward,  
23 did EY have the people available to come back on and  
24 work on the project?

25 A. Yes. And as in the previous message, we had

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1 already been informing area management that we were  
2 going to need to have all hands on deck and supplement  
3 it with specialty resources where needed.

4 Q. So you were preparing to move forward in case  
5 that was the decision?

6 A. Yep, absolutely.

7 Q. On the last message on the bottom of the page  
8 it says, "Do we need to address the requested new SOC  
9 work?" What is Mr. Penler referring to here?

10 MS. VANDRUFF: Objection. Lack of foundation.  
11 You may answer.

12 THE WITNESS: In January, end of January,  
13 Twitter approached us and asked if we could move  
14 forward in preparing a new statement of work to issue a  
15 new SOC report.

16 BY MS. COLLESANO:

17 Q. What happened with that request?

18 A. We never heard back from the company. We  
19 followed up once and then never heard back from our  
20 follow-up. And then we resigned and everything  
21 stopped.

22 Q. You told Twitter you were no longer interested  
23 in submitting a statement of work for that project?

24 MS. VANDRUFF: Objection. Leading.

25 You may answer the question.

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1 THE WITNESS: We didn't communicate anything  
2 with them one way or the other.

3 BY MS. COLLESANO:

4 Q. Well, you say you resigned. What does that  
5 mean, then?

6 A. We resigned from the FTC consent order  
7 engagement.

8 Q. You resigned from the FTC's consent order  
9 engagement, so that meant what, that that wouldn't  
10 happen, the SOC work?

11 A. We just never heard back from anybody after  
12 that with their interest to provide them with a  
13 statement of work.

14 Q. Okay. So you are saying you terminated and  
15 then Twitter never contacted you about it again?

16 A. Correct.

17 Q. On the first message on the next page, you say,  
18 "no we just say we are not doing that as well." What  
19 does that mean?

20 MS. VANDRUFF: Objection. It speaks for  
21 itself.

22 You may answer the question.

23 THE WITNESS: If we had resigned from the FTC  
24 work, then we probably would tell Twitter, no, we  
25 weren't going to do the SOC report either.



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1 BY MS. COLLESANO:

2 Q. Is there a reason you couldn't do the SOC  
3 report?

4 A. There wasn't a reason. It was more of an  
5 efficiency aspect.

6 Q. What does that mean?

7 A. The SOC report had some similar controls or  
8 controls that were covered under the FTC report, and so  
9 we would be able to test them and leverage the work and  
10 conduct our interviews sort of jointly for both levels  
11 of work. But if we weren't doing the FTC work, then,  
12 you know, there wouldn't be a benefit to the company to  
13 do that. So I would tell them it's probably not  
14 efficient for us to be the ones to do that since you  
15 could take from anybody.

16 Q. There's discussion in the last statement at the  
17 bottom about an exit plan. What did you plan to be an  
18 exit plan?

19 MS. VANDRUFF: Objection. Vague.

20 You may answer the question.

21 THE WITNESS: If we decided to terminate the  
22 agreement.

23 BY MS. COLLESANO:

24 Q. If you decided to terminate the agreement, what  
25 would your exit plan be?

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1           A. I was being cute at the end of a very long  
2       conversation. Basically my exit plan would be I would  
3       just give them the giant foam finger and be like, I'm  
4       done with all of this.

5           Q. I understand that. I'm just asking would EY  
6       have an actual exit plan? What does that mean?

7           A. Yes --

8           Q. A resignation or something else?

9           A. Yes, it goes back to one of the items from the  
10      previous e-mails where you specifically highlighted we  
11      would need to prepare a resignation communication for  
12      Twitter.

13          Q. So that's all an exit plan would entail, just  
14      written communication to Twitter saying that you were  
15      resigning?

16          A. Correct.

17                 (Rogue Deposition Exhibit Number 7 was marked  
18      for identification.)

19                 BY MS. COLLESANO:

20          Q. I'm going to show you another document marked  
21      EY\_FTC\_0007423. Are you able to see that?

22          A. Yes.

23          Q. Do you need a minute to review?

24          A. It's just the one sentence, correct?

25          Q. Yes.

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1 A. No, I read it.

2 Q. So this is an e-mail from you to Paul Penler on  
3 February 21, 2023, with the subject line Urgent; is  
4 that correct?

5 A. Correct.

6 Q. And it appears to have an attachment, Twitter  
7 Talking Points (resign).docx; is that right?

8 A. Yes.

9 Q. Did you create this Twitter talking points  
10 document?

11 A. I did. I was the originator of it.

12 Q. Who were the talking points for?

13 A. Myself.

14 Q. For what purpose?

15 A. To communicate to Twitter that we would be  
16 resigning from the engagement.

17 Q. Why did you send the document to Paul Penler?

18 A. He is from our professional practice group.

19 He's had a lot more experience with situations of this  
20 nature. As I have shared before, we try not to execute  
21 and operate individually. We always consult, and I  
22 always think more of user considerations are better.  
23 So I value Paul's opinion and asked him to take a look  
24 at it and give me his thoughts.

25 Q. Were these talking points based on your own

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1 perspective?

2 A. Yes, I had originally framed the message.

3 Q. What were the talking points?

4 A. I believe they are the same talking points that  
5 we put in the resignation memo and then as well as the  
6 memo that I know we provided to Twitter on what we  
7 actually sent to Twitter in writing for our  
8 resignation.

9 (Rogue Deposition Exhibit Number 8 was marked  
10 for identification.)

11 BY MS. COLLESANO:

12 Q. Showing you another document, EY\_FTC\_0002778.  
13 Let me know when you've had a chance to take a look at  
14 it.

15 A. Okay.

16 Q. This is a message from Paul Penler to you and  
17 others on February 21, 2023; is that correct?

18 A. Correct.

19 Q. And Mr. Penler indicates he had a conversation  
20 with Brian Lynch and is conveying some key information  
21 about that; is that right?

22 A. Yes. That's what I interpret it.

23 Q. And he says in the first bullet, "Generally  
24 audit and attest work is not viewed as causing any  
25 independence threats - so the possible issue I raised

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1 is likely not a significant concern." What did he mean  
2 by that?

3 MS. VANDRUFF: Objection. Lack of foundation.

4 You may answer the question.

5 THE WITNESS: I can't remember, to be honest.

6 BY MS. COLLESANO:

7 Q. Is he indicating this potential issue he was  
8 raising was not a concern?

9 A. That's how I interpret it, but I can't remember  
10 what the original issue was.

11 Q. The second bullet talks about there not being a  
12 specific prohibition against being an expert witness.  
13 Did you expect EY to be an expert witness in relation  
14 to this consent order assessment?

15 MS. VANDRUFF: Objection. That calls for a  
16 legal conclusion.

17 You may answer the question.

18 THE WITNESS: I have no idea, actually. I  
19 didn't understand what the nuance of that meant, and so  
20 it didn't sound like any of this was gong to be  
21 impactful for where we were in the process. So I read  
22 the e-mail, saw the outcome was, for the most part,  
23 ignore everything that we talked about earlier.

24 BY MS. COLLESANO:

25 Q. Okay. So these points that Mr. Penler had

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1 raised, they weren't actually concerns. That was your  
2 read of the message?

3 MS. VANDRUFF: Objection. Leading. Lack of  
4 foundation.

5 You may answer the question.

6 THE WITNESS: I believe that was the intent  
7 based on his comment "I was barking up the wrong tree."

8 BY MS. COLLESANO:

9 Q. What did you understand that to mean?

10 A. He had at some point expressed a concern, but  
11 it turned out to be not a valid concern.

12 Q. He says at the end of that sentence, "but we  
13 have more cannon fodder related to perceived  
14 independence risks." What did you understand that to  
15 mean?

16 MS. VANDRUFF: Objection. Lack of foundation.

17 You may answer the question.

18 Mr. Roque is reading the document. Do you want  
19 to direct him to where that is?

20 MS. COLLESANO: At the end of the sentence he  
21 just referenced, the paragraph begins, "Bottom line,"  
22 and I'm directing him to the end of that sentence, "but  
23 we have more cannon fodder related to perceived  
24 independence risks."

25 THE WITNESS: I actually don't know what he was

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1 referring to.

2 BY MS. COLLESANO:

3 Q. I'm going to show you another document.

4 (Roque Deposition Exhibit Number 9 was marked  
5 for identification.)

6 BY MS. COLLESANO:

7 Q. This is EY\_FTC\_0006979. Let me know when you  
8 have had a chance to take a look.

9 A. Okay.

10 Q. So this is a chat conversation between you and  
11 Mr. Penler on February 21, 2023; is that correct?

12 A. That is correct.

13 Q. On this second page, the second message from  
14 the top Mr. Penler says, "I don't think it changes the  
15 talking points. I through [sic] a hail mary on my  
16 e-mail and Brian ruled not caught." What did you  
17 understand that to mean?

18 MS. VANDRUFF: Objection. Lack of foundation.  
19 You may answer the question.

20 THE WITNESS: Can you give me just a minute.

21 MS. VANDRUFF: I'm sorry, Mr. Roque, are you  
22 evaluating another document?

23 THE WITNESS: I am. I'm going back to look at  
24 Document 008.

25 MS. VANDRUFF: Ms. Collesano has not asked you

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1 to do that. So I think --

2 THE WITNESS: Am I not allowed to do that?

3 MS. VANDRUFF: Well, if she asks you to, you  
4 may, but for now she is asked you to look at Exhibit 9.  
5 So looking at Exhibit 9, if you can answer the  
6 question, please do that.

7 THE WITNESS: I would like to answer the  
8 question, but I'm trying to make sure I'm factually  
9 correct, and I want to go look at Document 8.

10 MS. VANDRUFF: I think you can let  
11 Ms. Collesano know that.

12 THE WITNESS: Can I go back and check  
13 Document 8 before I answer the question you asked?

14 BY MS. COLLESANO:

15 Q. Of course.

16 A. Sorry.

17 MS. VANDRUFF: So for the record, the witness  
18 is reviewing what counsel for the FTC has marked as  
19 Exhibit 8 in answering the pending question.

20 THE WITNESS: So to answer your question, I  
21 believe this was a follow-up from the earlier exchange,  
22 Document 8 we went through, where Paul was indicating  
23 that he had asked a series of questions to Brian Lynch,  
24 and Brian came back and said, no. And so Paul was  
25 making reference that he had thrown out an idea, but it



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1 wasn't caught, meaning it wasn't correct or it wasn't  
2 valid.

3 BY MS. COLLESANO:

4 Q. So his idea was that there were these  
5 independence concerns that Mr. Lynch might think were  
6 issues that could support the EY decision to terminate?

7 MS. VANDRUFF: Objection. Lack of  
8 foundation -- excuse me. Objection. Lack of  
9 foundation. Leading.

10 You may answer the question.

11 THE WITNESS: I think you have -- sorry if I  
12 misunderstood you. I think you have it backwards.  
13 Paul had a thought that could be something, and so he  
14 went to check on it with Brian. Brian said, no, I  
15 don't think that's correct.

16 BY MS. COLLESANO:

17 Q. So when he says Hail Mary, it's not that he  
18 wanted his idea to work?

19 MS. VANDRUFF: I'm sorry, is there a pending  
20 question, counsel?

21 BY MS. COLLESANO:

22 Q. When he references Hail Mary, is he indicating  
23 that he wanted his idea to work?

24 MS. VANDRUFF: Objection. Lack of foundation.

25 You may answer the question.

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1 THE WITNESS: I don't remember what his mindset  
2 was when he wrote that.

3 BY MS. COLLESANO:

4 Q. You respond, No worries. There is not good  
5 outcome from this anyway. What are you saying there?

6 A. I was basically saying at this point, whether  
7 we resigned or we executed the engagement, it didn't  
8 seem like either one was going to be a good outcome  
9 possibly.

10 Q. Why did you think that?

11 A. Because I wasn't sure we would be able to  
12 complete the examination work timely. And obviously,  
13 resigning was going to create a whole set of problems  
14 with people being upset that we had resigned.

15 Q. The next sentence from Paul Penler says, "I  
16 assume Rebecca knows she can't tell FTC we are  
17 resigning or talk about how we can [sic] to that  
18 conclusion." What was Mr. Penler telling you here?

19 MS. VANDRUFF: Objection -- go ahead. Can you  
20 finish the question.

21 BY MS. COLLESANO:

22 Q. Excuse me. I was going to say why was he  
23 saying Rebecca couldn't tell the FTC?

24 MS. VANDRUFF: Objection. Compound. Lack of  
25 foundation.

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1           You may answer the question.

2           THE WITNESS: All of this -- can we have a  
3 minute?

4           MS. VANDRUFF: Sure, we can confer. We are  
5 going to go off the record.

6           (A recess was taken.)

7           (The record was read as requested.)

8           MS. VANDRUFF: Counsel, I'm going to instruct  
9 Mr. Roque that he may not answer that question if it  
10 reveals the contents of communications between  
11 Mr. Roque and counsel. He may otherwise answer the  
12 question. Mr. Roque?

13           THE WITNESS: I don't think I can answer that  
14 question based on conversations with counsel.

15           BY MS. COLLESANO:

16           Q. You say later at 5:16 p.m., it looks like it's  
17 the third message at 5:16 p.m., "I am not sure how that  
18 works in this situation when the client has told us we  
19 can talk to the FTC." Are you pointing out that you  
20 don't agree with Mr. Penler's statement that EY  
21 couldn't share the termination with the FTC?

22           MS. VANDRUFF: Objection. The document speaks  
23 for itself. And I'm going to instruct Mr. Roque that  
24 he may not answer the question if it reveals the  
25 content of attorney-client communications.

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1           Mr. Roque, you may answer the question if it  
2       does not reveal the content of confidential  
3       attorney-client communications.

4           THE WITNESS: A component of my reply to that  
5       question was since Paul had not been part of the  
6       day-to-day engagement, I was just making sure he had an  
7       appreciation that Twitter had provided to us in writing  
8       we were allowed to talk to the FTC if and when we felt  
9       it was appropriate or they reached out to us with  
10      questions. We didn't always need to inform Twitter or  
11      have Twitter present. They gave us that latitude.  
12      That's what I was trying to make sure he understood.

13           BY MS. COLLESANO:

14           Q. On the same page at 5:18 Mr. Penler says, "Do  
15      we have a game plan if the FTC extends the deadline?"  
16      What does that mean?

17           MS. VANDRUFF: Objection. Lack of foundation.  
18           You may answer the question.

19           THE WITNESS: I think I need to step out again.

20           MS. VANDRUFF: We'll go off the record.

21           (A recess was taken.)

22           (The record was read as requested.)

23           MS. VANDRUFF: There's an objection that that  
24      lacks of foundation.

25           And Mr. Roque, you can answer the question to

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1 the extent it doesn't implicate any confidential  
2 communications with regards to attorney-client  
3 communication.

4 THE WITNESS: In our efforts to try to conduct  
5 this examination and get it done on time, a question  
6 was raised does Twitter have the ability to go back to  
7 the FTC and ask for the deadline of when the report was  
8 supposed to be issued to be pushed out. That's what  
9 his question was for.

10 BY MS. COLLESANO:

11 Q. Why would you need a game plan if the FTC  
12 accepted a push of the deadline?

13 A. Just making sure we had adequate resources to  
14 continue to execute our resources and teams were booked  
15 with a certain time component where it was scheduled to  
16 end. And then those resources probably were already  
17 deployed on other engagements, such as making sure we  
18 could facilitate that if the timing changed.

19 Q. Was part of the concern that EY didn't want to  
20 do the work even if the deadline was pushed out?

21 MS. VANDRUFF: Objection. Mischaracterizes  
22 testimony.

23 You may answer the question.

24 THE WITNESS: No. It was just a question of  
25 another what-if scenario.

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1 BY MS. COLLESANO:

2 Q. On the next page, at 5:19 p.m., you say, No  
3 idea. I can ask Frank on the call I have with him at 4  
4 today but he does not want to do the work, so a  
5 deadline change or not I am not sure it is going to  
6 change anything for EY." What did you mean there?

7 MS. VANDRUFF: Objection. The document speaks  
8 for itself.

9 You may answer the question.

10 THE WITNESS: I was just indicating that I had  
11 a follow-up call with Frank later that afternoon to  
12 check in on where the firm was in its decisionmaking.

13 BY MS. COLLESANO:

14 Q. Farther down at 8:11 p.m. you say, "Where is  
15 the best place to confirm independence considerations  
16 for attest engagement." What did you mean there?

17 MS. VANDRUFF: Objection. The document speaks  
18 for itself.

19 You may answer the question.

20 THE WITNESS: I was just trying to double check  
21 I had all my facts straight, and I was asking Paul if  
22 he could help me navigate our internal tool that has  
23 all the standards listed so I could do the proper  
24 research. Being from professional practice, he just  
25 knows that stuff inside and out, and I was trying to

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1 help him direct me exactly where would be the best  
2 sections to review the standards themselves.

3 BY MS. COLLESANO:

4 Q. You are trying to find the policy within EY  
5 related to independence considerations?

6 A. No. I was trying to find the professional  
7 guidance from the AICPA standards about independence  
8 considerations.

9 Q. Farther down -- why were you looking for that  
10 independence considerations guidance at that time?

11 A. Just to make sure we had everything accurately  
12 reflected. Just so we didn't run afoul of anything.

13 Q. What do you mean?

14 A. In order to issue an attestation report, the  
15 firm issuing those reports needs to be independent, and  
16 I just was -- I forget exactly what prompted the  
17 question, but I was just trying to do my due diligence  
18 to make sure there wasn't something that we needed to  
19 consider, a document.

20 Q. A little farther down in the document at  
21 8:24 p.m. you say, By the way or BTW, do you think this  
22 could work for Twitter, and you quote language about an  
23 adverse interest threat. What were you trying to say  
24 here?

25 MS. VANDRUFF: Objection. Vague. Lack of

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1 foundation.

2 You may answer the question.

3 THE WITNESS: Can I have a minute?

4 MS. VANDRUFF: We need to go off the record?

5 THE WITNESS: Yes.

6 MS. VANDRUFF: We are going to go off the  
7 record.

8 (A recess was taken.)

9 THE WITNESS: So the question about --

10 MS. VANDRUFF: Why don't we have the court  
11 reporter read it back, please.

12 MS. COLLESANO: I'm happy to have the question  
13 read back. I'm just a little surprised that we keep  
14 taking breaks while --

15 MS. VANDRUFF: I'm going to ask that we take a  
16 break, and I have instructed after every question. And  
17 so but we are going to take a break after this question  
18 also. Take a break so that Mr. Roque has a mental  
19 break. We have been going now for an hour and a half,  
20 and so there have been a number of issues here that  
21 have implicated meetings between Ernst & Young counsel  
22 and Mr. Roque, and so we have consulted with him on our  
23 breaks about that. And that is Mr. Roque's right, of  
24 course.

25 MS. COLLESANO: Happy to take a break when you



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1 are ready. I was pointing out the questions are  
2 pending. If you are saying these are all  
3 attorney-client privileged matters, I understand that,  
4 and I appreciate that clarification.

5 MS. VANDRUFF: Happy to. Ms. Wehr, if you will  
6 read the question back to Mr. Roque.

7 (The record was read as requested.)

8 MS. VANDRUFF: And my instruction was that this  
9 was vague and lacks foundation.

10 Mr. Roque, you can answer the question.

11 THE WITNESS: As we were moving forward with  
12 this engagement, we had ongoing discussions with the  
13 FTC. And during those discussions, the FTC kept  
14 expressing their opinion more and more adamantly about  
15 the extent of procedures Ernst & Young would need to  
16 perform based on their expectations. And there was  
17 also expectations around the results they would expect  
18 us to find based on the information Twitter had already  
19 provided to the FTC and the FTC had reviewed.

20 I raised a personal concern that I felt as if  
21 the FTC was trying to influence the outcome of the  
22 engagement before it had started, and I was trying to  
23 make sure that the way the conversations with the FTC  
24 were transpiring we didn't have an adverse threat from  
25 an independent interest. In other words, was there

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1 somebody outside of the arrangement we had with Twitter  
2 trying to influence the outcome of our results.

3 BY MS. COLLESANO:

4 Q. In the conversations that you had with the FTC,  
5 was the focus on getting appropriate information to  
6 make sure that the program mandated under the order was  
7 operating effectively?

8 A. Yes.

9 MS. COLLESANO: Ms. VanDruff, I'm finished with  
10 this exhibit if you want to take that break now.

11 MS. VANDRUFF: I do. If you don't have  
12 follow-up questions about Exhibit 9, that would be  
13 helpful. Thank you.

14 MS. COLLESANO: How long would you like?

15 MS. VANDRUFF: Five minutes would be helpful.

16 MR. KOFFMANN: Can we make it ten minutes, if  
17 you don't mind.

18 MS. COLLESANO: Sure.

19 (A recess was taken.)

20 BY MS. COLLESANO:

21 Q. I was trying to get you a break, I'm sorry if  
22 we went a little long. You can just stop me. I'm  
23 happy to take breaks when you guys need them.

24 Just going back to Exhibit 9, on the third page  
25 near the bottom at 8:28 p.m., you say, "I was thinking

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1 EY interests are not aligned with Twitter anymore  
2 because of the FTC." What did you mean by that?

3 A. Before the break, I was just personally getting  
4 concerned that our obligation under our contract is to  
5 go in and do the independent assessor report and then  
6 report the facts based on the results. In some of the  
7 discussions that we were having with the FTC,  
8 expectations were being conveyed about what those  
9 results should be before we had even begun any  
10 procedures, and I was concerned that there was this  
11 adversarial situation occurring where you had two  
12 competing parties that, stepping back, both had a  
13 desire for a certain outcome to occur that may not have  
14 always been aligned.

15 Q. It seems to implicate that at least at one  
16 point you thought EY's interests were aligned with  
17 Twitter.

18 A. No. That was not the intent to say I had an  
19 allegiance or alignment with any entity.

20 Q. To be clear, no one from the FTC directed you  
21 to reach a particular conclusion about Twitter's  
22 program, correct?

23 A. There was suggestions of what they would expect  
24 the outcome to be.

25 Q. Did the FTC convey concerns about the level of

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1 change at Twitter and things that had been revealed  
2 through the press that --

3 A. The -- sorry, you instructed me not to talk  
4 over you. I apologize.

5 MS. VANDRUFF: Anne, I apologize. Would you  
6 like to restate your question?

7 MS. COLLESANO: If Mr. Roque had something to  
8 say, I'm happy to let him make his statement.

9 THE WITNESS: No, just finish your question so  
10 I can make sure I answer it correctly.

11 MS. COLLESANO: Deborah, can you read back what  
12 I said, please.

13 (The record was read as requested.)

14 BY MS. COLLESANO:

15 Q. That were developing and that the FTC would  
16 want to make sure EY examined in its assessment of  
17 Twitter's program?

18 A. Yes.

19 Q. I believe you testified earlier that you were  
20 also reading news reports in November of 2022 and had  
21 concerns as well; is that correct?

22 MS. VANDRUFF: Objection. Mischaracterizes  
23 prior testimony.

24 You may answer the question.

25 THE WITNESS: I don't know that I had concerns.

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1 There was just a lot going on that we were trying to  
2 figure out what was fact from fiction.

3 BY MS. COLLESANO:

4 Q. And a lot of these changes -- a lot of these  
5 changes created more work for EY in the assessment,  
6 correct? More that needed to be reviewed?

7 A. I don't know for sure since we didn't do the  
8 work. The amount of change did require more work in  
9 just trying to understand the impact of that change.

10 Q. No one from the FTC actually told you what EY's  
11 report should say in its conclusions, correct?

12 MS. VANDRUFF: Objection. Leading.

13 You may answer the question.

14 THE WITNESS: There was a conversation where it  
15 was conveyed that the FTC would be surprised if there  
16 was areas on our report that didn't have findings based  
17 on information the FTC was already aware of, and if  
18 Ernst & Young didn't have findings in those areas, we  
19 should expect the FTC would follow up very  
20 significantly to understand why we didn't have similar  
21 conclusions.

22 BY MS. COLLESANO:

23 Q. I'm going to show you another document.

24 (Roque Deposition Exhibit Number 10 was marked  
25 for identification.)

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1 BY MS. COLLESANO:

2 Q. Let me know when you have had a chance to take  
3 a look.

4 A. Yes, I looked at it.

5 Q. This document is marked EY\_FTC\_0003024.

6 Mr. Roque, can you tell me what this document is?

7 A. This is our formal communication to Twitter of  
8 our resignation for the FTC engagement.

9 Q. And it's dated February 27th. I believe you  
10 mean 2023. Not '2?

11 A. Yes, that is an error.

12 Q. But you testified earlier that EY made the  
13 decision to resign on February 20th; is that right?

14 A. It was earlier in that week. I forget the  
15 exact date.

16 Q. If the decision was made a week earlier, why  
17 did EY wait until the 27th to inform Twitter of its  
18 decision?

19 A. We had a certain process that we wanted to  
20 follow from a communications standpoint and took a few  
21 days to get all the necessary parties to, for example,  
22 review this particular communication before it was sent  
23 to Twitter.

24 Q. EY had different teams to review what was being  
25 said before it was communicated?

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1 A. Not different teams. Different individuals.

2 So for example, our risk management team.

3 Q. Anyone else?

4 A. Professional practice, legal counsel. Whoever  
5 decided they thought they wanted to give input or  
6 review it before it went out, they were involved in the  
7 process.

8 Q. To review your talking points or to review the  
9 content of this letter?

10 A. Both.

11 Q. How did you tell Twitter that you were  
12 resigning?

13 A. By video call.

14 Q. Who was in the meeting?

15 A. It was myself, Christian Dowell and Rebecca  
16 Lubens, as far as I remember.

17 Q. What did you tell them? What did you tell  
18 Mr. Dowell?

19 A. I communicated our resignation points.

20 Q. Resignation points that are where?

21 A. I would have to figure out where they are in  
22 what we submitted, but I know we provided a summary of  
23 our talking points for the resignation videoconference.  
24 And I just read from that.

25 Q. You provided a summary of your talking points

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1 to Mr. Dowell just verbally or are you saying you  
2 provided the document?

3 A. I had a document that I read from and verbally  
4 communicated to Mr. Dowell. My talking points were not  
5 sent to him.

6 Q. And what do you recall about what you said to  
7 him, what the points were?

8 A. It was very short. Basically we decided to  
9 resign from the FTC engagement.

10 Q. Did he ask why?

11 A. He did, and we just said we made a business  
12 decision.

13 Q. Did you provide any further context for him?

14 A. We didn't. The conversation was probably less  
15 than 10 minutes.

16 Q. What was Mr. Dowell's reaction to your  
17 statement?

18 A. He was surprised.

19 Q. Did he have any -- how did he express that to  
20 you?

21 A. Something similar to the lines of, like, I'm  
22 surprised. I wasn't expecting this. I understand.  
23 Thank you.

24 Q. What else happened in the meeting?

25 A. That was it. We had the resignation, and as I



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1 say, the call lasted less than 10 minutes.

2 I'm sorry, I can clarify. We also did, at the  
3 end of the call, offer to obviously help in  
4 transitioning or providing assistance as they sought a  
5 new assessor. We could do what we could where it made  
6 sense to support that process as best we could. So  
7 that was also discussed in that call.

8 Q. Did Mr. Dowell seem receptive to that offer?

9 A. He did.

10 Q. So the letter itself mentions that you had a  
11 meeting on February 27th and then said that the  
12 agreement would be terminated pursuant to paragraph 33  
13 of the services agreement. Do you recall what that  
14 paragraph allowed for?

15 A. Yeah. Yes, it's in the -- the services  
16 agreement is what we refer to as sort of our master  
17 service agreement. It's the agreement that we have  
18 with Twitter as a company, and then individual  
19 statements of work for particular services that are  
20 more specific with scope and timing are executed under  
21 that. In the service agreement, paragraph 33 is a  
22 termination clause. It gives both parties the right to  
23 terminate immediately or in writing with 30 days  
24 notice.

25 Q. What is the difference between the 30 days and

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1 the immediate notice?

2 MS. VANDRUFF: Objection. Calls for a legal  
3 conclusion.

4 You may answer the question.

5 THE WITNESS: It's just two different options  
6 to terminate the agreement. My personal view is they  
7 both result in the same outcome.

8 BY MS. COLLESANO:

9 Q. And you terminated immediately, so it was  
10 effective that day?

11 A. Correct.

12 Q. In the last a sentence of the letter you write,  
13 "For the avoidance of doubt, this termination relates  
14 only to the Services described in the August 24, 2022  
15 SOW;" is that correct?

16 A. Yes.

17 Q. Why were only those services terminated? Did  
18 you have other active services for Twitter?

19 MS. VANDRUFF: Objection. Compound.

20 You can answer the question.

21 THE WITNESS: Yes. I believe, as we discussed,  
22 there was ongoing tax services with Twitter.

23 BY MS. COLLESANO:

24 Q. So had EY gotten those tax services by this  
25 time?

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1           A. There was ongoing tax services that EY has  
2     provided, is my understanding, to Twitter over the  
3     years. Then what we were talking about earlier is  
4     there was a new set of services as well that were  
5     incremental.

6           Q. I'm going to show you another document.

7                     (Roque Deposition Exhibit Number 11 marked for  
8     identification.)

9           BY MS. COLLESANO:

10          Q. This is marked EY\_FTC\_000057. Let me know when  
11     you have had a chance to review it.

12          A. Okay. I'm looking at it now. Okay.

13          Q. Did you draft this document?

14          A. I did.

15          Q. Did anyone assist you in drafting the document?

16          A. Yes, several parties did.

17          Q. Who were they?

18          A. This would go back to your previous question of  
19     the timeline. So after I initially created this, I had  
20     the independent quality review partner, Scott Coolidge,  
21     also take a look at it to get his feedback. We had  
22     risk management review it to see if they had any  
23     comments or feedback. Professional practice or as  
24     mentioned earlier, Paul Penler specifically, reviewed  
25     it to give comments. Legal counsel reviewed it. I

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1 can't remember if Geoff Beatty or Frank specifically  
2 reviewed it as well. Frank Mahoney.

3 Q. Do you recall when you drafted it? I believe  
4 this is undated.

5 A. It probably would have been the beginning of  
6 that week after the decision was made. And this was  
7 then leveraged as part of our engagement archiving  
8 process. So it would have been leveraged from the  
9 initial resignation communications and then rounded out  
10 before we archived our file.

11 Q. When you say leveraged from, what do you mean?

12 A. Just the facts. The initial body of this was  
13 probably written during the week of the resignation.  
14 After we resigned, we then needed to archive our  
15 engagements in accordance with firm policy. This  
16 document was specifically put in to give a broader set  
17 of context for everybody that hadn't necessarily been  
18 involved in all the discussions if they came along and  
19 independently looked at the file.

20 Q. In the first paragraph you describe that this  
21 is "in order to have a record of our minimal engagement  
22 activities." What were the minimal activities that EY  
23 has done for this assessment?

24 A. We had had -- we created an original statement  
25 of work. We had completed client acceptance -- not

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1 client acceptance, engagement acceptance procedures  
2 specific to this engagement. We had had some initial  
3 discussions with management in preparation to begin our  
4 planning.

5 Q. Anything else?

6 A. No, that was about it. I think the file only  
7 contains about 13 documents.

8 Q. And the engagement acceptance procedures, those  
9 would be done before you signed the statement of work?

10 A. That's correct.

11 Q. So if you go a little farther down this page,  
12 there's a section entitled Original Plan, and you say  
13 that "we planned to begin our procedures in January  
14 2023." What do you mean by procedures?

15 A. Those were documented in the statement of work  
16 in our timeline. We had originally expected to sort of  
17 be in the field and starting to execute our design  
18 procedures with control owners in January.

19 Q. When you say be in the field, what do you mean  
20 by that?

21 A. Sorry. Audit term. Actually conducting direct  
22 interviews, interacting with client contacts, the  
23 control owners themselves. Historically field work  
24 meant we would go into the field, like on the client's  
25 site, and do our actual physical work. Obviously, with

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1 COVID that moved to more of a remote model.

2 Q. Were there aspects of the field work that still  
3 needed to be done in person or could it all be done  
4 remotely?

5 A. I think it could be done remotely. Our goal,  
6 though, was to go onsite and do as many procedures as  
7 possible directly at the Twitter offices, as that was  
8 the company's policy, for everybody to be returning  
9 back to the office.

10 Q. So that was the plan here, that you would  
11 prefer to be in-person onsite?

12 A. Where possible.

13 Q. You also said "execute design procedures."  
14 What does that mean?

15 A. The design procedures are the initial set of  
16 procedures where we try to obtain or confirm our  
17 understanding of the design of the control and how it  
18 operates. So we usually do a transactional test of  
19 one.

20 Q. So the plan in the statement of work was to go  
21 in January 2023, but that didn't happen, correct?

22 A. Yes.

23 Q. Had you begun any of the field work procedures?

24 A. No.

25 Q. The next sentence says that we initiated

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1 planning for the engagement in October 2022. What does  
2 that mean, initiating planning?

3 A. We had our signed statement of work. We were  
4 trying to get a complete list of the controls  
5 framework. We would be trying to build out our client  
6 assistance or prepared-by-client list to send ahead of  
7 time so they could start gathering the evidence to set  
8 up the meetings. We have a set of internal documents  
9 such as a planning memo that provides an overview of  
10 the scope of the engagement. Those are considered our  
11 planning activities.

12 Q. And that PBC reference, that's a list of items  
13 that you need the company to provide to you for your  
14 work?

15 A. Correct.

16 Q. If you turn to the next page, the first  
17 sentence states that on October 27, 2022, Elon Musk  
18 acquired Twitter. When did you become aware of the  
19 Musk acquisition?

20 A. I had been following it through the news  
21 articles. I knew he had made an intent to purchase the  
22 organization, saw that the Court required him to follow  
23 through on that interest to purchase and then saw the  
24 transaction was actually finalized.

25 Q. Did anyone at Twitter convey the information to

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1     you?

2           A.   No.   Sorry.   People were talking about there  
3     was the intent for him to buy the company, but the  
4     actual acquisition, I believe, I saw first or heard  
5     about first through the press.

6           Q.   Did the acquisition impact your work with  
7     Twitter?

8           A.   Yes.

9           MS. VANDRUFF:   Objection.   Vague.

10          BY MS. COLLESANO:

11          Q.   How?

12          A.   It just made it very difficult to regularly  
13     interact and find key contacts with Twitter personnel  
14     that were involved or responsible for this engagement.

15          Q.   You mentioned significant voluntary departures.  
16     What do you mean by significant?

17          A.   My view of significant would be more than  
18     probably 20 to 40 people.   So for example, in the end  
19     of February -- sorry, the end of November when the  
20     mandate to return to the office was required, I think  
21     they had several hundred people opt not to return.   To  
22     me, for a one-day event, that's pretty significant for  
23     that many people to depart an organization.

24          Q.   You also mentioned the departure of two  
25     individuals for whom we previously obtained management



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1 representation. Who were you referring to there?

2 A. Damien Kieran previously provided the  
3 management representation. And I would have to go  
4 back. I can't remember the second signature.

5 Q. Was it potentially Lea Kissner?

6 A. I would have to go back. That would have been  
7 the 2020 year engagement. So almost two and a half  
8 years ago.

9 Q. This also states Twitter terminated numerous  
10 individuals who were control owners as well as internal  
11 audit managers. Do you have an idea of how many people  
12 you are referring to here?

13 MS. VANDRUFF: Objection. Lack of foundation.  
14 You may answer the question.

15 THE WITNESS: Yes, it would be everybody in  
16 internal audit. It would be some of our historical  
17 security and privacy contacts that we would interact  
18 with in doing our readiness review. It would be key  
19 executives, such as Jim Baker, who supposedly replaced  
20 Damien Kieran and then was also terminated. It was  
21 sort of ongoing, I guess.

22 BY MS. COLLESANO:

23 Q. It says you made multiple requests for key  
24 documents like a final control list or organization  
25 chart.

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1 A. That's correct.

2 Q. Did you receive an organization chart?

3 A. We never received a final organization chart.

4 Q. It says that, As a result, our planning  
5 procedures and scoping of the engagement halted for a  
6 period of time. What was that period of time?

7 A. Basically from November to the day of  
8 resignation.

9 Q. I think we've already talked about Mr. Baker  
10 and Mr. Alonso. A little farther down you write, "The  
11 response we received on December 1, 2022, indicated  
12 that a majority of the controls had new owners while  
13 other controls did not have current owners or were not  
14 operating as intended." Is that correct?

15 A. I'm sorry, I'm trying to find the specific  
16 paragraph. Are we still on page 2?

17 Q. It's the last sentence of the fourth paragraph  
18 on page 2.

19 A. Got it. Yes, okay. I'm sorry.

20 Q. I was asking if that was what you wrote here.  
21 What did this statement mean for the order assessment?

22 A. If we had decided to move forward with issuing  
23 our findings and recommendations report, we were trying  
24 to get a sense of the relevance of the -- and how  
25 accurate the information in that report still was. We

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1 had asked management to provide us a current list of  
2 all the controls reviewed in the readiness assessment  
3 to understand the amount of change that had occurred  
4 since our procedures were conducted. On December 1st,  
5 they actually provided a response to our request, which  
6 included all of the controls that we had previously  
7 looked at in September and October with the control  
8 owners and whether there had been changes.

9 Q. If the program was supposed to be in place on  
10 November 22nd, and on December 1st Twitter is telling  
11 you there were lots of new owners and lots of controls  
12 not operating as intended, did that indicate anything  
13 to you about the likely implementation of the program?

14 MS. VANDRUFF: Objection. Lack of foundation.  
15 Calls for expert testimony.

16 You can answer the question.

17 THE WITNESS: It did raise a question about  
18 what the potential outcome could be.

19 BY MS. COLLESANO:

20 Q. What do you mean by that?

21 MS. VANDRUFF: Same objection.

22 You may answer.

23 THE WITNESS: It just was a data point of  
24 reference that there was potentially the impact of  
25 aspects of the program not working, but I had no

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1 evidence to support that. It was just an assumption.

2 BY MS. COLLESANO:

3 Q. Until you would be able to go in and examine  
4 the procedures?

5 A. Correct.

6 Q. Next paragraph -- I'm sorry, two paragraphs,  
7 the last paragraph on the page says on December 22nd  
8 you arranged a broader meeting with the new Twitter  
9 privacy and security program owners, and at the end of  
10 the paragraph, it talks about some of the things you  
11 discussed. One of the things was "our proposed timing  
12 for our procedures." What was communicated about the  
13 timing of EY's procedures?

14 A. We had communicated in the statement of work  
15 our procedures were scheduled to begin in January, but  
16 we were obviously trying to look at accelerating or  
17 doing as much as possible sooner than later so we could  
18 understand what was really happening with the impact  
19 for all this change.

20 Q. So from your perspective, you needed to  
21 potentially get in earlier to address unanticipated  
22 changes because of the acquisition?

23 MS. VANDRUFF: Objection. Leading.

24 You may answer the question.

25 THE WITNESS: Yes. And in a conversation in

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1 early December with the FTC, they also made the request  
2 of us to see what we could do to start executing any  
3 procedures sooner than later, and so we said we'll go  
4 and ask. So we started asking in December if we could  
5 start doing more work or any work sooner than later.

6 BY MS. COLLESANO:

7 Q. And Twitter said no?

8 A. Twitter didn't really give an answer for most  
9 of December because we didn't have -- we couldn't track  
10 down anybody that was responsible for the program to  
11 facilitate that.

12 Q. You also then said "outstanding client  
13 requests." What outstanding client requests were  
14 pending?

15 A. It was the items that were listed here.  
16 Primarily what we needed is a complete risk and control  
17 matrix that would then facilitate our ability to scope  
18 the body of work and know how to make our request list  
19 as well as design our procedures to do our testing.

20 Q. Sounds like the risk and control matrix was a  
21 prerequisite for doing the assessment; is that right?

22 A. Yes, that would be foundational for us to  
23 really plan and execute the audit.

24 Q. Do you recall receiving the final risk and  
25 control matrix?

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1 A. We did. We received it on January 31st.

2 Q. You also mention the payment of outstanding  
3 invoices. What were you referring to here?

4 A. As we shared earlier or one of your earlier  
5 questions, we had invoices that became due in December,  
6 and we made inquiries about where those stood and when  
7 they might be paid.

8 Q. And then you mentioned the challenges we were  
9 experiencing with control turnover. What was control  
10 owner turnover, what challenges were you experiencing?

11 A. Just who the new control owners were, did we  
12 have the right control owner. As I shared previously,  
13 there were some controls where there was not a control  
14 owner identified. So we were just struggling to know  
15 where to begin.

16 Q. On the next page in the third paragraph that  
17 begins, "On January 31, 2023," you write that Twitter  
18 said the redesign of the organization structure was  
19 still in process. What does that mean?

20 A. That was in reference to their organizational  
21 chart. They were still redesigning or mapping out  
22 their organizational chart. It hadn't been finalized.

23 Q. Did the -- go ahead.

24 A. I'm sorry. I think somebody just moved in the  
25 room and made a background noise.

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1 Q. Did the fact that the organizational structure  
2 was still being developed have any impact on the risk  
3 and control matrix?

4 A. It was a component of it. So the  
5 organizational chart helps us understand the structure,  
6 where segregation of duties may or may not exist, who  
7 reports to who. So it's a component of looking --  
8 having that is a component of the risk and control  
9 matrix and trying to look at them together. The  
10 organizational chart would have also been beneficial  
11 for us to try to consolidate or plan our procedures.  
12 Some controls might have the same control owner. So if  
13 we knew the structure, we could say, okay, here is the  
14 group of people or the individual that we need to talk  
15 to and try to plan and book our time so we are as  
16 efficient as possible to get as much accomplished with  
17 each meeting we had.

18 Q. So even though you had the updated risk and  
19 control matrix, the lack of organizational chart could  
20 still slow down your planning procedures related to it?

21 A. That's correct.

22 Q. In the fifth paragraph down, you write, In  
23 early February, Twitter told us it would likely not be  
24 ready for us to initiate field work until mid-March.  
25 Did they explain why?

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1           A. They just said they didn't have the resources  
2     available to do the audit. And that was one of the  
3     discussions I had where they said they were actively  
4     trying to hire at least two open positions and hoped to  
5     have had them fulfilled and then would be able to have  
6     more resources to address our requests, I guess.

7           Q. So you told Twitter that the revised time frame  
8     would increase the risk of not completing the  
9     assessment by the June 2023 deadline; is that correct?

10          A. Yes.

11          Q. What was their reaction to that statement?

12               MS. VANDRUFF: Objection. Lack of foundation.

13               You may answer the question.

14               THE WITNESS: Their response was we'll all make  
15     an effort to get started as soon as possible and get as  
16     much done as we can by the deadline.

17               BY MS. COLLESANO:

18          Q. Did you make Twitter aware of the expanded  
19     scope of work given the changes that had taken place at  
20     Twitter?

21          A. Yes.

22          Q. In the next paragraph you say that as of  
23     February 27, 2023, EY had not conducted any interviews  
24     of Twitter control owners since October 2022 or  
25     completed planning or executed any assessment



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1 procedures. Why couldn't the Twitter control owners be  
2 interviewed?

3 MS. VANDRUFF: Objection. Lack of foundation.

4 You may answer the question.

5 THE WITNESS: The company didn't facilitate us  
6 having those interviews.

7 BY MS. COLLESANO:

8 Q. Was that the same situation for the completion  
9 of planning and the execution of assessment procedures?

10 MS. VANDRUFF: Objection. Compound. Vague.

11 You may answer the question.

12 THE WITNESS: It was an extension of not having  
13 the necessary information to complete our planning.  
14 For example, the risk and control matrix, we didn't  
15 receive that until January 31st.

16 BY MS. COLLESANO:

17 Q. When you say complete planning, what would that  
18 encompass, the completion of planning?

19 A. The overall time memo, the timeline, some  
20 preliminary work we do around, you know, like assessing  
21 the risk and control matrix. A different item we had  
22 been asking for was management's annual risk assessment  
23 that needed to be conducted in conjunction with the  
24 order so we could start reviewing that. Some of those  
25 items were required for us to finalize our planning.

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1 Q. In the order assessment SOW, when did it state  
2 that planning would be completed?

3 A. I don't believe the statement of work  
4 specifically had a timeline component for the category  
5 of planning, just that we would do our work from  
6 January until, I forget the back end date.

7 Q. When would you have expected the planning to be  
8 done for an assessment like this?

9 A. The general expectation is it would be done  
10 before we begin field work.

11 Q. The next paragraph is under a heading called  
12 Internal Discussion.

13 A. Yep.

14 Q. And it says that "the engagement team consulted  
15 with executive management to keep leadership informed  
16 of the team's progress on the assessment and consider  
17 potential risk to our engagement preconditions  
18 resulting from the dynamic nature of the company.  
19 During these meetings EY evaluated numerous factors,  
20 including, but not limited to." I would like to go  
21 through each bullet and have you tell me what is meant  
22 by that. The first --

23 A. Okay.

24 Q. "How the departure of Twitter employees  
25 responsible for the compliance programs, control

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1 ownership and control operation could impact EY's  
2 ability to complete its procedures," what did you mean  
3 here?

4 A. The amount of change to personnel in the  
5 organization potentially may cause delays resulting  
6 from our inability to either talk to control owners or  
7 obtain evidence from the control owners timely.

8 Q. How about the "whether appropriate control  
9 owners would be in place at the time of control  
10 testing," what does that mean?

11 A. We would -- whether or not each control, by the  
12 time we began our field work procedures, would actually  
13 have a control owner assigned and would that control  
14 owner actually have executed the control for a period  
15 of time to be able to talk to it and walk us through an  
16 example and ultimately support our testing.

17 Q. How much -- is there a general practice of how  
18 long a control owner would need to be able to be up to  
19 speed on their control?

20 MS. VANDRUFF: Objection. Asked and answered.  
21 You may answer the question.

22 THE WITNESS: I would expect a control owner  
23 usually to be in place and executing the control for at  
24 least a month, but it would depend on the nature and  
25 the type of the control itself.

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1 BY MS. COLLESANO:

2 Q. The third bullet mentions whether the FTC or  
3 Twitter could use EY's report for purposes for which it  
4 is not intended. What does that mean? What could they  
5 potentially use it for?

6 A. The report that we intended to issue under the  
7 attest standards was designed to be provided to  
8 Twitter, and Twitter could then, in turn, provide that  
9 report to the FTC. So those are the two intended  
10 users. But there was concern that maybe the report  
11 would be shared inappropriately with other parties and  
12 be used for unintended purposes.

13 Q. What kind of parties were you concerned about?

14 A. The press, other regulators.

15 Q. You mention the availability of employees with  
16 appropriate subject matter competence to provide  
17 written management representations to EY. When EY  
18 terminated, did you believe Twitter had these people in  
19 place?

20 A. It was to be determined.

21 Q. Did you see evidence that they had the people  
22 in place?

23 A. I don't know because we didn't execute any of  
24 the procedures. I couldn't talk to any of the control  
25 owners. And really the only individual we had operated

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1 with from sort of an executive standpoint was Christian  
2 Dowell.

3 Q. The next bullet is about adequate resources,  
4 which we discussed. Did you have anything else to add?

5 A. I don't think so, but if you have questions,  
6 please ask.

7 Q. The first bullet on the next page says,  
8 "whether management would have a basis to provide  
9 written representations and would have an adequate  
10 basis for their assertions." Is this different from  
11 the employee representation?

12 A. Correct. The management representation is a  
13 very specific document that's required under the  
14 professional standard where key executives are usually  
15 responsible for signing that. So as we discussed in  
16 the previous FTC examination, we had at least Damien  
17 sign. He was the overall head and individual  
18 responsible for the program. He was running the  
19 program for a number of years, and we interacted with  
20 him regularly. So there was just a potential question  
21 of what would it look like when it came time to get  
22 that representation at the end of the engagement.

23 Q. At the time you terminated, who would you have  
24 expected to make a management representation?

25 MS. VANDRUFF: Objection. Lack of foundation.

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1           You may answer the question.

2           THE WITNESS: At a minimum, at that time, at  
3   least Christian Dowell, if not others.

4           BY MS. COLLESANO:

5           Q. Can you think of anyone else specifically that  
6   it would be or just Christian?

7           MS. VANDRUFF: Objection. Lack of foundation.  
8           You may answer the question.

9           THE WITNESS: Potentially somebody from legal  
10   counsel, potentially somebody that had more direct  
11   responsibility for the overall spend of the privacy  
12   controls. Perhaps somebody from the security  
13   organization like a chief security information officer.  
14   Some or all of those individuals probably would have  
15   been asked to sign the representation letter.

16          BY MS. COLLESANO:

17          Q. Do you know whether Twitter had those people in  
18   place at the time you terminated?

19          A. I don't know if they had designated individuals  
20   for all those roles.

21          Q. The next bullet talks about organizational  
22   changes, which you've also discussed. And then you  
23   mention the delay to the project timeline requested by  
24   Twitter. Was the delay requested or was it simply a  
25   new timeline because you couldn't do anything without

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1 Twitter's assistance?

2 A. We couldn't do much without Twitter's  
3 assistance. As I shared, they proposed mid March to be  
4 in working, but there was also the possibility, I  
5 guess, that they might move it to April 1st. We just  
6 didn't know.

7 Q. If they had come back and said "we want to move  
8 it to April 1st," could you have done anything about  
9 it?

10 MS. VANDRUFF: Objection. Lack of foundation.  
11 You may answer the question.

12 THE WITNESS: I'm not sure I understand what  
13 you are asking for. Could we have done anything  
14 without it, are you talking from a resource standpoint?  
15 Are you -- I mean, it's sort of a future event that  
16 didn't happen. So I'm trying to make sure I do my best  
17 to respond to what you are looking for.

18 BY MS. COLLESANO:

19 Q. Did you have a way to make Twitter let the  
20 field work start earlier?

21 A. Other than asking and continuing to ask for us  
22 to begin our work, we didn't have much influence. I  
23 didn't know the control owners. They didn't know who  
24 we were necessarily. I didn't have their e-mails. I  
25 don't know it would be appropriate for me to change the

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1 protocol we had set up with how we were going to  
2 communicate and operate with them and start reaching  
3 out to these individuals arbitrarily on our own.

4 Q. In the SOW with Twitter, had they previously  
5 agreed to start the work in January 2023?

6 MS. VANDRUFF: Objection. Asked and answered.

7 You may answer the question.

8 THE WITNESS: Based on them signing the  
9 agreement, I would say yes.

10 BY MS. COLLESANO:

11 Q. In the next the section you talk about EY  
12 executive management making the decision to resign.  
13 Who would be included in that description?

14 A. All I know is for sure Frank Mahoney.

15 Q. Do you think he was the ultimate decisionmaker  
16 or were others involved?

17 MS. VANDRUFF: Objection. Lack of foundation.

18 You may answer the question.

19 THE WITNESS: I don't know. I wasn't involved  
20 in the conversations or had a list of people he talked  
21 to in trying to eventually come back with a decision.

22 BY MS. COLLESANO:

23 Q. Without revealing any privileged information,  
24 can you explain how you were informed that the  
25 termination decision had been made?



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1 MS. VANDRUFF: Anne, I appreciate your caution,  
2 but I'm going to instruct Mr. Roque that he can only  
3 answer your question if you are able to do that without  
4 revealing any communication that is confidential  
5 between attorneys and Ernst & Young employees.

6 THE WITNESS: If I can, that was -- I was  
7 informed by videoconference.

8 BY MS. COLLESANO:

9 Q. By the team that made the decision?

10 A. Not the team. By Frank.

11 MS. VANDRUFF: Anne, I'm just going to ask that  
12 we take a short break to confer on this. I'm going to  
13 go off the record.

14 (A recess was taken.)

15 (The record was read as requested.)

16 MS. VANDRUFF: Thank you, Ms. Wehr.

17 BY MS. COLLESANO:

18 Q. In the second paragraph after the resignation  
19 conclusion section, you stated that EY determined to  
20 resign because the engagement preconditions had changed  
21 so significantly between the time of the engagement and  
22 Ernst's decision to terminate that the team did not  
23 believe any longer that it could perform the engagement  
24 in accordance with the professional obligations. Why  
25 wasn't EY able to do so?

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1 MS. VANDRUFF: Objection. Vague.

2 You may answer the question.

3 THE WITNESS: It was a culmination of the  
4 factors outlined above. We ultimately didn't think we  
5 were going to be able to execute this engagement on  
6 time. And there had been a significant change with the  
7 executive management, and we would have still had to  
8 renegotiate a new statement of work, and that might  
9 have also been further delays.

10 BY MS. COLLESANO:

11 Q. Aside from the delay piece, how is the delay  
12 piece related to fulfilling professional obligations?

13 A. I shouldn't be executing an engagement without  
14 a signed statement of work. So we had a professional  
15 obligation not usually to conduct those procedures,  
16 especially for a new testing engagement or a financial  
17 audit without a signed statement of work.

18 Q. And the signed statement of work from August of  
19 2022 was not sufficient?

20 A. No. There had been so much change, we felt it  
21 needed to be renegotiated.

22 Q. Was Twitter willing to renegotiate it?

23 MS. VANDRUFF: Objection. Lack of foundation.

24 You may answer the question.

25 THE WITNESS: I believe they were. As we

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1 discussed earlier, I had communicated we were working  
2 on a revised statement of work, and they said they  
3 understood.

4 BY MS. COLLESANO:

5 Q. Had you shared a revised statement of work with  
6 them?

7 A. We didn't. We resigned before that got framed.

8 Q. The increased scope of work that you  
9 anticipated as a result of changes in circumstances,  
10 when do you think you would have needed to start your  
11 procedures to meet the deadline?

12 MS. VANDRUFF: Objection. Lack of foundation.  
13 You may answer the question.

14 THE WITNESS: Probably early February.

15 BY MS. COLLESANO:

16 Q. At the latest?

17 A. At the latest, but that's not to say it  
18 couldn't get done.

19 Q. I know we've talked a little bit about the  
20 basic phases of work for the order assessment, but can  
21 you just give me a quick overview of the different  
22 parts?

23 MS. VANDRUFF: Is there a question, counsel?

24 BY MS. COLLESANO:

25 Q. Can you give me an overview of the different

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1 parts of the phases of work in the order assessment?

2 A. Yes. And I'm sorry, are you going to have me  
3 look at a document any time soon on the tool?

4 Q. Not right now.

5 A. Okay. I just need to switch glasses. It's  
6 hard for me. Sorry.

7 So usually we have our -- before we start any  
8 engagement, following from policy, we would usually  
9 complete a series of internal procedures first. Some  
10 of them we've talked about. Some of them may or may  
11 not need to be done each and every time, but there's  
12 usually at least engagement acceptance. We have a  
13 review process before accepting new work to make sure  
14 we have adequate resources, for example, to execute  
15 that work. We have a very technical skills assess to  
16 do the work. So there's like an upfront pre-engagement  
17 phase.

18 Then we usually have the statement of work  
19 component where we are negotiating finalizing scope,  
20 timing with the client, get their agreement and our  
21 understanding of the engagement is correct.

22 Once that gets signed, we enter into what we  
23 call the planning phase. Then, as we've discussed,  
24 that usually entails helping the team get up to speed.  
25 It might be something as simple as getting client

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1 laptops, getting badged so we can get onsite and do  
2 procedures if we are going onsite, writing our planning  
3 memos, finalizing the budget, setting up engagement  
4 codes.

5 Then after that we usually, depending on the  
6 engagement, the length of time or the nature of it,  
7 we'll usually do what we call a design phase where we  
8 confirm our understanding of the controls and their  
9 operations. And that allows us to then say, okay,  
10 based on the nature of the control, how do I design my  
11 testing procedures to test that control based on our  
12 sampling methodology.

13 Then we usually have the actual execution and  
14 testing phase, and then we have sort of our wrap-up and  
15 report issuance phase where we produce the deliverables  
16 to the client if there's any that were contracted for.

17 And after that we archive the engagement, which  
18 means we basically create a finalized version of  
19 everything we've produced, and it goes off into records  
20 storage.

21 Q. That's been helpful. I appreciate it. Aside  
22 from, I think, you started with the internal procedure,  
23 which I assume EY handles itself and doesn't involve  
24 the potential client; is that right?

25 A. Yes, for the most part. There might be a

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1 question or two we ask the client, but generally it's  
2 all Ernst & Young.

3 Q. And then you work on that statement of work  
4 internally, and then that needs to be finalized with  
5 the client?

6 A. Correct.

7 Q. And then the next four phases you mentioned,  
8 planning design, execution/testing and report/wrap-up,  
9 do each of those components involve information and  
10 assistance from the client to be executed?

11 A. They do.

12 Q. Did you get the information and access you  
13 needed from Twitter to complete your planning  
14 procedures?

15 A. They were very receptive to giving access. As  
16 we've discussed there was a couple of key items we were  
17 looking for, like the annual risk assessment, the  
18 organizational chart, the risk and control matrix.  
19 Some of those were provided to us but pretty late from  
20 when we originally were hoping to receive them.

21 Q. Did you reach the design phase at all?

22 A. We didn't.

23 Q. I assume each phase builds on the prior one, so  
24 you couldn't do the design without the finalization of  
25 the planning process; is that fair?

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1 A. Yes.

2 Q. So since you couldn't do planning or design,  
3 you couldn't do execution and testing either; is that  
4 right?

5 A. That's correct.

6 Q. And then you obviously couldn't write up a  
7 report and share the results, correct?

8 A. Yes.

9 Q. I'm going to show you another document now.  
10 (Roque Deposition Exhibit Number 12 was marked  
11 for identification.)

12 BY MS. COLLESANO:

13 Q. This is EY\_FTC\_0005309. Let me know when you  
14 have had a chance to take a look.

15 A. Okay.

16 Q. So this is a meeting invite that was sent to  
17 you in November 2022, and in some of the information  
18 that's conveyed with that meeting invite, there are  
19 three bullets. The first states, in part, that Bret  
20 Cohune cautioned that if anyone at Twitter signs it,  
21 the SOC 2 report, it would be fraudulent. Were you  
22 aware of that caution at the time?

23 MS. VANDRUFF: Objection. Vague.

24 You may answer the question.

25 THE WITNESS: I became aware of it in -- upon

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1 receiving this e-mail.

2 BY MS. COLLESANO:

3 Q. Were you concerned about this statement?

4 A. Sure, at face value, yes.

5 Q. Why?

6 A. I have a client contact using the word  
7 "fraudulent."

8 Q. Did you think that was an implication for the  
9 order assessment work?

10 MS. VANDRUFF: Objection. Lack of foundation.  
11 You may answer the question.

12 THE WITNESS: I wasn't sure. It was to be  
13 determined.

14 BY MS. COLLESANO:

15 Q. The second bullet says "the remaining teams  
16 will not be working on FTC matters anymore." Do you  
17 know what that means?

18 A. Yes. Bret was not happy with the direction of  
19 what was taking place at the company. And after Damien  
20 Kieran resigned, he had instructed his team that he did  
21 not feel comfortable that anybody from internal audit  
22 should be supporting the FTC engagement anymore, and he  
23 just was letting us know that that's not what EY's team  
24 would be doing.

25 Q. What is the role of internal audit?



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1 MS. VANDRUFF: I'm sorry. Objection. Lack of  
2 foundation.

3 You may answer the question, Mr. Roque.

4 THE WITNESS: I'm going to be very specific.  
5 Different organizations can decide how they want to use  
6 their internal audit function in many different ways.  
7 For our engagement, internal audit was helping to  
8 facilitate the actual the execution of our audits.

9 BY MS. COLLESANO:

10 Q. At the time you terminated, was the internal  
11 audit team still active at Twitter?

12 A. No. They had -- Bret was the last one, and he  
13 resigned in November, and that was the last member of  
14 the internal audit group.

15 Q. Do you know what happened to the rest of the  
16 internal audit group aside from Bret?

17 A. They were either terminated or resigned prior  
18 to the work-from-the-office order.

19 Q. Do you know if people were hired to create --  
20 to recreate an internal audit team at Twitter?

21 MS. VANDRUFF: Objection. Lack of foundation.

22 You may answer the question.

23 THE WITNESS: Up to the point of resignation,  
24 I'm not sure I remember any discussions of whether the  
25 company had made a decision to rebuild that group or

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1 not.

2 BY MS. COLLESANO:

3 Q. The bullet says "the remaining teams will not  
4 be working on FTC matters anymore." Do you know what  
5 other teams this is referring to aside from internal  
6 audit?

7 A. I don't. I wasn't on the call, and this was  
8 conveyed through a different person. So I'm not sure  
9 how she may have interpreted it.

10 Q. So you are saying you didn't join this meeting?

11 A. I may have joined the meeting, but I believe  
12 this was an e-mail communicated to a group of EY  
13 individuals based on a conversation Ryan had with Bret.  
14 So this was Ryan's summary of her discussions with  
15 Bret. I don't know how she -- if she interpreted them  
16 all correctly or the word choices she used.

17 Q. Sure. I understand this is a meeting invite.  
18 I'm asking do you recall if you joined the actual  
19 meeting to discuss these items?

20 A. I'm assuming I did, yes.

21 Q. Do you remember anything that was said in the  
22 meeting about the remaining teams referenced here?

23 A. I don't. The main people we were interacting  
24 with was internal audit. I'm sure there's people from  
25 the privacy or security teams that were in place, but I

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1 don't know if they were specifically instructed or they  
2 made their own decisions not to participate.

3 Q. The second bullet goes on to say, "if EY  
4 chooses to issue its FAR report, it would need to go  
5 directly to Elon or his attorney." What FAR report is  
6 being referenced here?

7 A. That's an acronym for findings and  
8 recommendations that goes back to, I think, at the  
9 beginning of our call we decided to call it the  
10 readiness review or readiness assessment. It's one and  
11 the same.

12 Q. So this refers to the readiness assessment?

13 A. Correct.

14 Q. You mentioned that this was based on a call  
15 that Ryan had with Bret Cohune. Who is Ryan  
16 Walkenhorst?

17 A. Ryan Walkenhorst was, at the time of this, I  
18 believe she was a senior on the engagement in providing  
19 the readiness review work.

20 Q. Was she also going to work on the order  
21 enforcement project?

22 A. She was.

23 Q. Do you recall anything else about this meeting  
24 and what was discussed?

25 A. I don't. The only other item I assume was

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1 discussed was based on bullet point 3, Bret  
2 communicating the company's policy to halt the payment  
3 of all invoices.

4 Q. At this point had you been experiencing delays  
5 in invoice payments yet?

6 A. We had not. Our invoices were not past due at  
7 the time of this e-mail.

8 Q. I'm going to show you another document.

9 (Roque Deposition Exhibit Number 13 was marked  
10 for identification.)

11 MS. VANDRUFF: Can we just take a short break.

12 (A recess was taken.)

13 BY MS. COLLESANO:

14 Q. So just before the break, I revealed  
15 Exhibit 13. Mr. Roque, are you able to see that and  
16 take a look?

17 A. Yeah, I just opened it.

18 Q. So this is an e-mail that you sent. The first  
19 e-mail at the bottom of the first page indicates that,  
20 in case you have not already seen, our new key contact  
21 that privacy and security roll up to was fired today.  
22 Is that correct?

23 A. Yes, it is.

24 Q. Is this how you learned that Jim Baker was no  
25 longer at Twitter?

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1 A. That's correct.

2 Q. Did Twitter inform you about the situation?

3 A. They did not.

4 Q. Did you reach out to Twitter to ask about the  
5 situation?

6 A. We, at the time, knowing we still had another  
7 person we were working with, Sergio, we had reached out  
8 to him to ask what was going on, and so that was after  
9 we came to learn Mr. Baker had been terminated.

10 Q. Did he confirm that was the situation? Did  
11 Mr. Alonso confirm that was the situation at Twitter  
12 with Mr. Baker?

13 A. I don't believe he actually ever responded  
14 because he himself left within four or five days after  
15 Mr. Baker's termination.

16 Q. When did you get a new contact aside from  
17 Mr. Baker and Mr. Alonso?

18 A. I think at the end of November, early December,  
19 the other Damien, Damien Vogt, was identified that we  
20 should start interacting with him about the FTC consent  
21 order work.

22 Q. Just to be clear, your e-mail is dated  
23 December 6th. How long after this do you think you  
24 were informed of Mr. Vogt's position as your client  
25 contact?

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1           A. I don't know. My understanding, the e-mail is  
2 obviously factually correct. I remember end of  
3 November, early December we were given Damien as sort  
4 of our day-to-day person to interact with as well.

5           Q. Your subject line here is, "More Twitter Fun."  
6 What previous fun led this to be titled More Twittner  
7 Fun?

8           MS. VANDRUFF: Objection. Lack of foundation.  
9 You may answer the question.

10          THE WITNESS: It was more sarcasm, meaning we  
11 had been constantly seeing stories about terminations  
12 at the organization, key people we have been working  
13 with leaving. So it was just sort of a tongue-in-cheek  
14 of here we go again.

15          BY MS. COLLESANO:

16          Q. The e-mail at the top of the page, it's again  
17 from you, and the last sentence says, "With the holiday  
18 quickly approaching and people continuing to disappear,  
19 I'm not optimistic we would be able to do much before  
20 the next year." What did you mean by disappearing from  
21 Twitter?

22          A. The amount of terminations and resignations.  
23 During the month of November, it just seemed like  
24 people were disappearing left and right.

25          Q. I'm going to show you another document as

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1 Exhibit 14. This is EY\_FTC\_0001940.

2 (Rogue Deposition Exhibit Number 14 was marked  
3 for identification.)

4 BY MS. COLLESANO:

5 Q. Feel free to take a look at the document, but  
6 I'll only have a couple questions about this.

7 MS. VANDRUFF: I don't think it's been  
8 published yet.

9 THE WITNESS: Yeah, the document hasn't come  
10 through. There it is. Okay.

11 BY MS. COLLESANO:

12 Q. So the first page, this is a looks to be a  
13 meeting recap of a meeting between EY and Twitter on  
14 December 22, 2022; is that correct?

15 A. That is correct.

16 Q. And who is Casey Kalra who sent this e-mail?

17 A. She was a senior working with Ryan on the  
18 readiness work and was going to be part of the team to  
19 do the FTC consent order.

20 Q. When you say a senior or she is in line with  
21 seniors, what does this mean?

22 A. Earlier when we went through the levels or  
23 maybe when you were asking about my levels of  
24 responsibility, we have roles of staff. We have staff  
25 1, staff 2, then we have a senior title, then we have a

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1 manager title, senior manager title and ultimately a  
2 partner or principal title. So they were both in the  
3 ranks of seniors. Seniors can operate between three to  
4 five years, usually, of time experience.

5 Q. So it's based on the level of experience they  
6 have, the title?

7 A. Correct. It's more geared towards time served  
8 at Ernst & Young or previous experience. They'll get  
9 assigned a certain level within the organization.

10 Q. And the work they would be doing across the  
11 board would be working on assessments of companies or  
12 other types of work?

13 A. I'm sorry, could you maybe ask your question in  
14 a different way? I want to make sure I respond  
15 correctly.

16 Q. I hear you describing your their as based on  
17 the amount of time they've spent at EY. I'm just  
18 curious what kind of experience they have in those  
19 roles. What type of work do they do?

20 A. Assuming the individual had started, let's say,  
21 day one out of school with Ernst & Young, then they  
22 usually will have been on a series of clients building  
23 their skill set to provide this type of service. So  
24 they would participate in client meetings, they would  
25 learn how to lead walk-through discussions, review work



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1 papers, execute testing procedures. It just depends on  
2 their level within the senior ranks and the client  
3 situation.

4 Q. So the EY attendees are listed here. It looks  
5 like you attended this meeting; is that correct?

6 A. Yes.

7 Q. Actually, if you look at the bottom of the  
8 document, the fourth bullet from the bottom --

9 MS. VANDRUFF: On page 1 or page 2?

10 MS. COLLESANO: On page 1.

11 MS. VANDRUFF: Thank you.

12 THE WITNESS: The paragraph starting, "EY  
13 explained there has been a bunch of change"?

14 BY MS. COLLESANO:

15 Q. Yes.

16 A. Okay.

17 Q. So as you said, EY explained there had been a  
18 bunch of change, and later in the paragraph, "we asked  
19 for update related to those 85 percent of controls that  
20 had all changed." Is she indicating that 85 percent of  
21 Twitter's controls had changed since you worked on the  
22 readiness assessment?

23 MS. VANDRUFF: Objection. Lack of foundation.

24 You may answer the question.

25 THE WITNESS: My interpretation of that was she

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1 was making a broad statement. The change in controls  
2 could have encompassed -- the control itself did  
3 change. Maybe a new control was added. An existing  
4 control could have been deprecated. The control that  
5 could have had a change in the control owner. So  
6 there's a variety of items that could have impacted a  
7 control, meaning there was a change to it in some way.

8 BY MS. COLLESANO:

9 Q. And 85 percent of Twitter's controls had some  
10 type of change like you have described since the  
11 readiness assessment was completed or almost completed

12 MS. VANDRUFF: Objection. Mischaracterizes  
13 testimony.

14 You may answer the question.

15 THE WITNESS: Only the controls that we  
16 assessed as part of the readiness. So as we discussed  
17 earlier, not all of the Twitter controls in their  
18 program were looked at then. So what we have referred  
19 to as the net new controls, those were what changed and  
20 were current in our system in October.

21 BY MS. COLLESANO:

22 Q. Two bullets down says, "Primarily, we need to  
23 understand controls of old order versus new order.  
24 David is saying we're pretty blind right now." What  
25 does that mean?

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1 MS. VANDRUFF: Objection. Lack of foundation.

2 You may answer the question.

3 THE WITNESS: Just there had been so much  
4 change to the organization, we didn't know anymore,  
5 based on the work we had done in October, how accurate  
6 that still was. So how many -- were the controls still  
7 the same controls. We were basically starting over  
8 from scratch again. And blind meaning like we just had  
9 no insight or understanding of what the current  
10 environment was operating under.

11 BY MS. COLLESANO:

12 Q. On the first bullet on the next page, the  
13 second sentence says, "if they're too new, we can't get  
14 evidence for walk-through or testing." How much time  
15 does a control need to be in effect to be able to test  
16 it?

17 MS. VANDRUFF: Objection. Asked and answered.  
18 Vague.

19 You may answer the question.

20 THE WITNESS: It depends on the control itself.

21 BY MS. COLLESANO:

22 Q. Can you give me an example?

23 A. Sure. If you have, let's say, a password  
24 control that says my password needs to be eight  
25 characters long, that's usually an inherent system

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1 functionality. You can go into the system as of a  
2 point in time and say does that control exist? It's  
3 point in time. It doesn't really offer -- it will  
4 operate through a series of other controls to support  
5 it operating correctly, but it's a point in time  
6 control usually when we look at it.

7 If there is like a quarterly review control of  
8 looking at users that are appropriate to an application  
9 or a system, I would need at least three months to have  
10 gone by for them to execute a quarterly control.

11 Q. Thank you. The last bullet on this page says,  
12 "if they say it is all working, then we want to test  
13 that and go to the FTC and say that they are  
14 misrepresenting themselves." What does that mean?

15 MS. VANDRUFF: Objection. Lack of foundation.  
16 You may answer.

17 THE WITNESS: I don't know. Sorry, I'm reading  
18 it to myself. I think there was a question of what --  
19 so in the order, there is the requirement after  
20 240 days where the company needed to provide  
21 representations based on the order of the overall  
22 control framework. So I think that's what I would  
23 interpret it.

24 In January, the bullet there, it says in  
25 January that Twitter was going to need to represent the

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1 order to the FTC. I'm not sure why she would put the  
2 second part in there because we didn't really have any  
3 evidence to conclude, based on what we had done to  
4 date, whether there was any misrepresentations or not.

5 BY MS. COLLESANO:

6 Q. And you mean the compliance report that was  
7 required under the order to be submitted to the FTC?

8 A. Correct.

9 Q. Did you ever receive a copy of that compliance  
10 report from Twitter?

11 A. We did.

12 Q. Did you review it?

13 A. I did.

14 Q. Did you have any thoughts about it?

15 MS. VANDRUFF: Objection. Vague.

16 You may answer.

17 THE WITNESS: They said they had the program in  
18 place and it was operating and ready to go. So...

19 BY MS. COLLESANO:

20 Q. Did you think that was accurate?

21 A. I didn't have any evidence to tell me that it  
22 wasn't.

23 Q. I'm going to show you another document. Before  
24 I do that, with reference to the January compliance  
25 report, EY had no basis to validate the accuracy of

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1 what Twitter had written in that report, correct?

2 MS. VANDRUFF: Objection. Leading.

3 You may answer.

4 THE WITNESS: Yes.

5 BY MS. COLLESANO:

6 Q. Yes, that's correct?

7 A. Yes, that's correct.

8 MS. VANDRUFF: Objection.

9 (Rogue Deposition Exhibit Number 15 was marked  
10 for identification.)

11 BY MS. COLLESANO:

12 Q. Showing you a new document marked as  
13 Exhibit 15. It's EY\_FTC\_0007225. Let me know when you  
14 have had a chance to take a look.

15 MS. VANDRUFF: It hasn't been published yet.

16 THE WITNESS: I have it. You need to scroll  
17 down.

18 MS. VANDRUFF: I apologize. Thank you.

19 THE WITNESS: Okay.

20 BY MS. COLLESANO:

21 Q. Who is Yvette Yeo? Sorry if I'm mispronouncing  
22 her name.

23 A. No, that's correct. She is a senior manager I  
24 work with and was a senior manager for the FTC  
25 engagement.

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1 Q. At 10:44 p.m. on January 31, 2023, she writes  
2 in a chat to you, "it's almost like, if we can't finish  
3 testing all controls because of the delay, we will just  
4 need to fail and qualify them." What does that mean?

5 MS. VANDRUFF: Objection. Lack of foundation.  
6 You may answer.

7 THE WITNESS: I think she was trying to  
8 understand if we couldn't execute on the work. So  
9 there was either if we couldn't get the evidence or we  
10 ran out of time to test certain controls, what was  
11 going to be the approach or how would we document the  
12 results of that. And it would just be that we would  
13 either say -- I don't think we would have said they  
14 failed. We would have probably had some more general  
15 language about we are not able to test the operating  
16 effectiveness.

17 BY MS. COLLESANO:

18 Q. And then so you wouldn't say failed. You would  
19 say something like that and then qualify them? Can you  
20 explain what that means?

21 MS. VANDRUFF: Objection. Compound. Leading.  
22 Lack of foundation.

23 You may answer the question.

24 THE WITNESS: I qualified those facts in one of  
25 our earlier discussions. It's a very specific term in

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1 the audit language around the attestation standard. So  
2 you can have a qualified report. I think she was using  
3 it broadly to convey if we had a large body of controls  
4 we couldn't test, would it possibly result in a  
5 qualification to the report.

6 BY MS. COLLESANO:

7 Q. Can you remind me what that would mean, a  
8 qualification to the whole report?

9 A. It's language that says here is what we did,  
10 but there's certain things we couldn't do. So there's  
11 a qualification to our opinion or the results of the  
12 examination itself.

13 Q. Can you have qualifications -- can you have  
14 general qualifications as well as qualifications for an  
15 individual control or do they not work that way?

16 A. They can. Sorry, I didn't mean to cut you off.  
17 The standards do allow for qualifications broadly or on  
18 a per-control area basis.

19 Q. I'm going to show you another document.

20 (Roque Deposition Exhibit Number 16 was marked  
21 for identification.)

22 BY MS. COLLESANO:

23 Q. This is Exhibit 16, EY\_FTC\_0006560. Let me  
24 know when you have had a chance to look at it.

25 A. Okay.



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1 Q. This is an e-mail from Christina Cavalli to  
2 you. Who is Christina Cavalli?

3 A. She is an internal finance person who helps  
4 with our budgeting and engagement economics.

5 Q. She references an ETC. Was that?

6 A. An estimate to complete.

7 Q. What does that mean?

8 A. So Ernst & Young's internal system for  
9 projects, we are required to do periodic updates on the  
10 status of the projects, anticipating the estimated  
11 level of effort to complete the engagement. And so you  
12 make adjustments sort of as you go periodically  
13 throughout the engagement. We made an adjustment and  
14 had to process an ETC, and that ETC was resulting in an  
15 incremental effort that we were not anticipating -- we  
16 had originally anticipated went we set up the  
17 engagement code, and we were going to have to write  
18 that off, meaning we would take a loss against it.

19 Q. Why would you take a loss against it?

20 A. Because there was going to be more hours  
21 expected to be incurred than we had planned for. So  
22 meaning, so if we had an engagement and we thought it  
23 would take 100 hours, and after the first week we  
24 said -- we charged 20 of those hours and said, no, we  
25 are now going to take 120 hours, we would run the ETC,

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1 and the ETC would say, okay, based on when you  
2 originally set this up, something has changed. There's  
3 more hours being incurred. You are going to have -- we  
4 are not going to be able to potentially collect for all  
5 that. So we need to write it off sooner than later.

6 Q. So this was written off from the readiness  
7 assessment because of the hours that you had calculated  
8 that would have been spent?

9 MS. VANDRUFF: Objection. Leading. Lack of  
10 foundation.

11 You may answer the question.

12 THE WITNESS: That's correct.

13 BY MS. COLLESANO:

14 Q. So if that's just standard that everything --  
15 is that the only reason for a write-off?

16 A. No. I'm not sure -- so maybe to clarify a  
17 point earlier, the ETCs are what we anticipate to  
18 complete the engagement. So something could change. I  
19 could run another ETC where I've had more efficiencies  
20 than I was expecting. So an ETC doesn't always result  
21 in a write-off. I can have a write-up as well. So now  
22 this engagement is working out better than I  
23 anticipated; here is what I'm now expecting to collect.  
24 So it's more of our firm's ability to accurately  
25 reflect the revenue that's being generated on a

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1 particular project through the lifetime of the project.

2 Q. Did this write-off just have to do with EY's  
3 procedures or did it have anything to do with Twitter  
4 specifically?

5 MS. VANDRUFF: Objection. Vague.

6 You may answer.

7 THE WITNESS: I don't know. As I said, it's a  
8 point in time during the entire engagement. So it will  
9 fluctuate up and down. I don't know the analysis that  
10 drove this particular estimate where it was going to  
11 take more time. It could have been items from Twitter.  
12 It could have been inefficiencies from Ernst & Young.  
13 It could have been due to a change in resource  
14 allocation. Each resource has different costing  
15 associated with it. So we might have needed to swap  
16 somebody after somebody had left the firm, and the new  
17 resource we replaced had a higher cost, which would  
18 have impacted what we expected to originally recover.  
19 So there's a host of things that could be contributing  
20 to write-ups or write-downs.

21 BY MS. COLLESANO:

22 Q. Do you know what was contributing to this  
23 write-off?

24 MS. VANDRUFF: Objection. Asked and answered.

25 You may answer.

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1           THE WITNESS: As I said, I would have to dig  
2     into the analysis back in -- when was this? Back in  
3     November.

4           BY MS. COLLESANO:

5           Q. What is a WIP?

6           A. It stands for WIP. And it's just another Ernst  
7     & Young acronym that stands for work in progress.

8           Q. What is it? It stands for work in progress,  
9     but what does that mean? Is it a document that you  
10    have or is it just a term you use to describe --

11          A. It's a lazy term that more or less means the  
12    same thing as the ETC. So we used to say you need to  
13    go and do -- look at the work in progress and make sure  
14    it's still reflective of where we are. When we got a  
15    new accounting system, they changed it to you now need  
16    to process ETCs, but some of us that are older in the  
17    firm continue to use the legacy terminology.

18          Q. I'll show you another document.

19                 (Rogue Deposition Exhibit Number 17 was marked  
20    for identification.)

21          BY MS. COLLESANO:

22          Q. This is Exhibit 17, and it's EY\_FTC\_0002662.

23    Let me know when you have had a chance to take a look  
24    at it.

25          A. Okay.

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1 Q. So Mr. Rosengarten asked have you received any  
2 payments from Twitter, and you say "of course not"; is  
3 that correct?

4 A. Yep.

5 Q. Is that "of course not" because you had been  
6 experiencing delays for a while in the payment of  
7 invoices?

8 MS. VANDRUFF: Objection. Leading. Lack of  
9 foundation.

10 You may answer the question.

11 THE WITNESS: Yes.

12 BY MS. COLLESANO:

13 Q. Then Mr. Rosengarten asked about "do they have  
14 a deadline before we highlight the resources are no  
15 longer available." What does that mean?

16 MS. VANDRUFF: Objection. Lack of foundation.

17 You may answer the question.

18 THE WITNESS: He was asking if there was a date  
19 where we would maybe say the resources allocated to  
20 this project are no longer available.

21 BY MS. COLLESANO:

22 Q. Meaning the EY resources?

23 A. That's correct.

24 Q. Then you say "they are starting planning.  
25 Frank gave a general okay to start but we have told

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1     them we will not perform an [sic] field work until they  
2     pay." Is that correct?

3             A. That is correct.

4             Q. So was Twitter's failure to pay impacting EY's  
5     ability to perform its work?

6             MS. VANDRUFF: Objection. Asked and answered.

7             You may answer the question.

8             THE WITNESS: No. We were executing our  
9     planning. We were still meeting with them regularly.  
10    We were holding status meetings trying to get the  
11    engagement going. It just sort of put a stake in the  
12    ground that said if we got to the point where we were  
13    supposed to be executing our field work procedures and  
14    still hadn't been paid, we would -- we would probably  
15    say we are not going to do that at this time until  
16    payment came through.

17            BY MS. COLLESANO:

18            Q. I'll show you another document.

19            (Roque Deposition Exhibit Number 18 was marked  
20    for identification.)

21            BY MS. COLLESANO:

22            Q. This is Exhibit 18, EY\_FTC\_0002802. Let me  
23    know when you have had a chance to look at that.

24            A. Okay.

25            Q. So the e-mail on the bottom of the first page,

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1 this is slightly later than the last document we looked  
2 at. It's February 23, 2023, and you write that you  
3 have checked and double checked the payment system and  
4 you have not received payments from Twitter. Is that  
5 correct?

6 A. Yes.

7 Q. And you say later, "Therefore, we will not be  
8 attending the status meeting today. We need to stop  
9 incurring time if payment will ultimately not arrive."  
10 Is that correct?

11 A. Yes.

12 Q. So at a certain point, you stopped attending  
13 meetings?

14 MS. VANDRUFF: Objection. Leading. Lack of  
15 foundation.

16 You may answer the question.

17 THE WITNESS: Yes, we started to -- I don't  
18 know if -- where you are -- I'm not sure I see status  
19 meeting.

20 BY MS. COLLESANO:

21 Q. The last -- second-to-last line.

22 A. Yeah. We were just starting to -- it was  
23 getting closer to start executing our field work  
24 procedures, and so we were starting to enact what we  
25 had communicated we were intending to do of not being

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1 able to move forward until payment had been received.

2 Q. Did these payment issues contribute to EY's  
3 decision to terminate?

4 MS. VANDRUFF: Objection. Asked and answered.  
5 You may answer.

6 THE WITNESS: No.

7 BY MS. COLLESANO:

8 Q. Do you know if payment issues were discussed by  
9 the team making the decision about the termination?

10 A. I don't know.

11 (Roque Deposition Exhibit Number 19 was marked  
12 for identification.)

13 BY MS. COLLESANO:

14 Q. I'm going to show you another document. This  
15 is Exhibit 19, EY\_FTC\_0005482. Let me know when you  
16 have had a chance to look at it.

17 A. Okay. Yes.

18 Q. Who is Casey Kalra?

19 MS. VANDRUFF: Objection. Asked and answered.  
20 Go ahead.

21 THE WITNESS: It's the same individual we  
22 talked about earlier when you had questions about the  
23 seniors. She was working with Ryan on the readiness  
24 assessment and was going to be part of the consent  
25 order.



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1 BY MS. COLLESANO:

2 Q. Who is Bailey Walker?

3 A. She is a staff-level person. So underneath the  
4 lowest level we have, they're going to be doing the  
5 day-to-day or documentation and gathering of evidence  
6 to facilitate some of the walk-throughs.

7 Q. And Nicole Tran?

8 A. Another staff resource.

9 Q. So Ryan Walkenhorst has sent this, what appears  
10 to be a calendar invite, on January 13, 2023. But in  
11 the message she writes, "RIP, hopefully we can all work  
12 together on another consent order soon." What does  
13 that mean?

14 MS. VANDRUFF: Objection. Lack of foundation.  
15 You may answer the question.

16 THE WITNESS: There was a component of our  
17 privacy team that specializes in privacy that they  
18 needed to get reassigned because there was no work for  
19 them to continue. So earlier you asked the question  
20 about what happened to our team members. Some of the  
21 younger ones were redeployed. So back in January,  
22 there was one or two members from the privacy group  
23 that got rolled on to another project, and I think she  
24 assumed at that point this engagement was not going to  
25 happen. And so she was just saying, I think, she

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1 enjoyed working with me and hoped we had the  
2 opportunity to be on a project again at some other  
3 point in time.

4 BY MS. COLLESANO:

5 Q. I'm going to show you another document.

6 (Roque Deposition Exhibit Number 20 was marked  
7 for identification.)

8 BY MS. COLLESANO:

9 Q. This is Exhibit 20, EY\_FTC\_0003184. Let me  
10 know when you have had a chance to look at it.

11 A. I'm familiar with it, yes.

12 Q. So what is this document?

13 A. This is a document that is basically asking for  
14 the company, and in this case, Protiviti, to sort of, I  
15 guess, waive considerations to talk to Ernst & Young.  
16 So earlier in the day I had communicated when we had  
17 resigned, there was also the component where we had  
18 offered to help facilitate a transition or do what we  
19 could to make all this as easy as possible for Twitter  
20 with our resignation. And so they, obviously, needed  
21 to go out and find a new assessor. Protiviti was one  
22 of the assessors that they were looking at, but  
23 Protiviti wanted to talk to Ernst & Young directly  
24 about why we resigned. And so in the accounting  
25 profession, we have a certain series of protocols that

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1 in order to have those types of discussions, the  
2 requesting firm usually needs to sign that, hey, we are  
3 going to talk to you but don't hold it against us. And  
4 so this document was prepared to then be signed by  
5 Twitter and Protiviti before we had the call with them.

6 Q. Protiviti was the one that made the request to  
7 speak with you?

8 A. That's correct.

9 Q. Did you meet with them personally?

10 A. I talked to them through a videoconference. I  
11 didn't meet them in person.

12 Q. I apologize. I mean, were you one of the  
13 people that spoke with them?

14 A. Yes.

15 Q. Who else was in the meeting from EY?

16 A. Rebecca Lubens.

17 Q. Anyone else?

18 A. EY, no, I think it was just the two of us.

19 Q. Was Twitter part of the meeting?

20 A. They were.

21 Q. Who from Twitter was there?

22 A. I remember Christian Dowell. I'm not sure if I  
23 recall who else may have been there.

24 Q. Do you recall what was discussed?

25 A. Yes. I mean, legal counsel was in this call.

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1 MS. VANDRUFF: Is there a question, Anne?

2 THE WITNESS: She asked me what was discussed  
3 on the call.

4 MS. VANDRUFF: She asked you -- I don't believe  
5 that was the question.

6 THE WITNESS: I'm sorry. I should just shut  
7 up.

8 BY MS. COLLESANO:

9 Q. What was discussed on the call?

10 MS. VANDRUFF: Answer the question. You may  
11 answer the question.

12 THE WITNESS: They just were asking questions  
13 about why we resigned and what led us to that  
14 conclusion.

15 BY MS. COLLESANO:

16 Q. What did you tell them?

17 A. We reiterated the same statement that we've  
18 provided to Twitter as part of the resignation.

19 Q. How many times did you speak with Protiviti?

20 A. Just that once.

21 Q. Do you know whether Protiviti became the new  
22 assessor for Twitter?

23 A. Our understanding from the company is that, no,  
24 they were not selected as the new assessor.

25 Q. Was that conveyed to you on the call that you

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1 had with them?

2 A. No.

3 Q. How was that conveyed to you?

4 A. It was conveyed in a follow-up request to speak  
5 with a different party that they were intending to  
6 select for the new assessor role.

7 Q. What party was that?

8 A. I forget the security firm out of Chicago I  
9 believe they ultimately selected and is doing the  
10 assessment right now.

11 Q. So you had a meeting with that firm as well?

12 A. We actually didn't have a meeting with them,  
13 but we conducted a similar exercise where that firm  
14 specifically asked for copies of some of our reports.  
15 And so because the reports were intended only for  
16 Twitter, they needed our approval to be able to turn  
17 those over.

18 Q. So you met with Protiviti but not this other  
19 firm that asked for documents?

20 A. Correct.

21 Q. And then after this firm made a request for  
22 documents, you checked with Twitter about whether you  
23 could provide them?

24 A. No, Twitter asked us. Our statement of work  
25 says they specifically have to get approval from us to

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1 provide certain documents.

2 Q. Okay. So Twitter basically informed you who  
3 the new assessor was by making this request?

4 A. Correct.

5 Q. Did you provide the information to the new  
6 firm?

7 A. We did after they signed a similar letter.

8 Q. Is there a reason you spoke to Protiviti but  
9 didn't have a meeting with the other firm?

10 A. No. Protiviti asked for the meeting. The  
11 other firm, as far as I know, never asked.

12 Q. I'm going to show you another document. This  
13 is 0000810.

14 (Roque Deposition Exhibit Number 21 was marked  
15 for identification.)

16 BY MS. COLLESANO:

17 Q. Exhibit 21, EY\_FTC\_0000810. Let me know when  
18 you have had a chance to take a look at it.

19 A. Yes, okay.

20 Q. Have you seen this document before?

21 A. Yes, I prepared it.

22 Q. What is this document?

23 A. It is a risk assessment memo that we decided we  
24 needed to create based on the nature of this  
25 engagement.

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1 Q. How do you prepare this type of memo?

2 MS. VANDRUFF: Objection. Vague.

3 THE WITNESS: I'm not sure I know how to answer  
4 based on that question. Could you maybe ask it a  
5 different way or be a little bit more specific?

6 BY MS. COLLESANO:

7 Q. What process did you take to prepare this  
8 document?

9 MS. VANDRUFF: Same objection.

10 You may answer the question.

11 THE WITNESS: When we've talked earlier about  
12 our engagement acceptance process, there's a series of  
13 questions that need to get asked, and depending on how  
14 those questions are answered, it drives sort of a risk  
15 factor associated with a particular engagement.

16 This engagement, because it was an FTC consent  
17 order, it had some potential publicity around it,  
18 drove -- said this was a higher risk engagement, and so  
19 we decided to write this engagement to explain what was  
20 driving those risks and how we were intending to  
21 execute our engagement to address and mitigate them.

22 BY MS. COLLESANO:

23 Q. This is dated June 2022. So this is reflective  
24 of your assessment as of that time?

25 A. Correct.

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1 Q. Was this document ever updated later?

2 A. It was not.

3 Q. How do you determine what level of risk you put  
4 in for each risk factor?

5 A. Just professional judgment, experience from  
6 executing third-party attestation engagements.

7 Q. Did anyone work with you on this document?

8 A. Scott Coolidge did. He helped me craft it. He  
9 has had experience in providing assessor reports for  
10 other FTC engagements. So he helped provide a lens  
11 based on that experience.

12 Q. On page 3 there's a risk factor number 2 titled  
13 Deficiencies in the Twitter Security and Privacy  
14 Programs. Why would this be a risk if there are  
15 deficiencies in the program?

16 A. We didn't know if there was deficiencies. The  
17 risk was there could be deficiencies, and there was  
18 just what risk is -- what happens if there's  
19 deficiencies in the program is sort of the intent of  
20 what the risk was.

21 Q. So I guess, once engaged, you have a category  
22 here for level of risk, and one is engagement risk.  
23 What does engagement risk mean?

24 A. Leading to the actual engagement itself, so  
25 executing the FTC consent order.



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1 Q. The risk to EY in executing the consent order?

2 A. No, risks associated with trying to execute the  
3 engagement itself for that particular project.

4 Q. What about firm reputational risk, what does  
5 that mean?

6 A. If there was an outcome or consequences that we  
7 were not anticipating in executing this engagement,  
8 potentially for that risk what could be the impact to  
9 the firm.

10 Q. How is this factor -- why does this have a high  
11 risk factor?

12 MS. VANDRUFF: Objection. Vague.

13 You may answer the question.

14 THE WITNESS: If the report we had issued ended  
15 up not -- sorry, had been other than unqualified, that  
16 probably would not have been the outcome Twitter was  
17 hoping for. And so as I said, I mean, things get  
18 leaked or shared inappropriately, and as I shared  
19 earlier before, the people that may obtain access to  
20 the report that never should have had it could  
21 misinterpret it or use it inappropriately, and that can  
22 create inaccurate press coverage for Ernst & Young  
23 related to the service.

24 BY MS. COLLESANO:

25 Q. It looks like you also have categories for

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1 potential mitigating steps and actions to mitigate a  
2 risk factor; is that correct?

3 A. Yes.

4 Q. So the fact that you moved forward with this  
5 statement of work would indicate that EY considered the  
6 risks that are laid out here and thought the potential  
7 mitigations were reasonable enough to let you go  
8 forward with the engagement?

9 MS. VANDRUFF: Objection. Leading.

10 You may answer the question.

11 THE WITNESS: That's correct.

12 MS. COLLESANO: Anne, it's been about an hour.  
13 Can we take a quick break.

14 (A recess was taken.)

15 BY MS. COLLESANO:

16 Q. Mr. Roque, your counsel said you had a  
17 clarification you would like to make. Please go ahead.

18 A. That's correct. It was pertaining to the  
19 question you asked about the reports that had been  
20 requested by the -- my understanding is the current  
21 assessor. And two aspects. One is I said we provided  
22 those to them. I don't think that was correct. We  
23 gave the authority for Twitter to provide the  
24 documents.

25 The second item is I just had a brain freeze,

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1 and what the assessor asked for was a copy of our SOC  
2 report as well as a copy of our findings for any of the  
3 readiness assessment report. We agreed that they could  
4 have the SOC report, but we did not let Twitter or we  
5 instructed Twitter not to provide the findings report  
6 to the new assessor.

7 Q. Thank you for that clarification.

8 A. Sure. I apologize. I'm embarrassed.

9 Q. No problem at all.

10 Earlier today you described the various  
11 resource constraints that Twitter faced post  
12 acquisition. In your experience, do you have an  
13 opinion as to how those resource constraints would  
14 affect Twitter's program?

15 MS. VANDRUFF: Objection. Incomplete  
16 hypothetical.

17 You may answer the question.

18 THE WITNESS: I just think there would have  
19 been a larger burden on a smaller number of people to  
20 execute the same control structure.

21 BY MS. COLLESANO:

22 Q. What would the impact of that be?

23 A. The potential impact is just assumptions. I  
24 don't know for sure. It could be people making  
25 mistakes because they are more tired and trying to get

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1 more stuff done in a day. Errors or mistakes could  
2 occur because they are now operating or performing a  
3 function that they are not as familiar with. It can  
4 compound the problem because they are getting worked so  
5 hard they decide this isn't the environment they want  
6 to be in anymore, and so they could potentially leave,  
7 which would compound the problem potentially further.  
8 So there's some thoughts of what I could see could  
9 happen.

10 MS. COLLESANO: Thank you, Mr. Roque. I  
11 appreciate your answers today. Those are all the  
12 questions I have at this time.

13 MS. VANDRUFF: I have just a quick follow-on,  
14 if I may.

15 MR. KOFFMANN: Let me just, sorry, counsel, I  
16 also have some questions. So I don't know if you  
17 prefer to do your follow-up now or to wait until after  
18 my questions. Whatever you prefer.

19 MS. VANDRUFF: No, I would prefer to do that  
20 after yours, Mr. Koffmann.

21 EXAMINATION

22 BY MR. KOFFMANN:

23 Q. Mr. Roque, hopefully just a few minutes of  
24 questions. I know it's been a long day for you.

25 Just to be clear, you understand that the oath

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1 that you took earlier today still applies even though  
2 I'm asking questions now and the FTC is not?

3 A. Yes.

4 Q. And you understand that the oath that you took  
5 today is the same one that would apply if you were  
6 testifying in court?

7 A. Yes.

8 Q. And it's also the same oath that would apply if  
9 you were testifying before the Federal Trade Commission  
10 itself. Do you understand that?

11 A. Yes, I do.

12 Q. Okay. And just as with counsel for the FTC, if  
13 there's anything in my questions that is unclear or  
14 doesn't make sense to you, just let me know. If you  
15 don't tell me that you don't understand the question,  
16 I'm going to assume that you do understand the  
17 question. Is that fair?

18 A. That's fair.

19 Q. Okay. Mr. Roque, you testified earlier today  
20 about some interactions you had with the FTC that gave  
21 you the impression that the FTC was expecting a certain  
22 outcome in the assessment that Ernst & Young was  
23 conducting relative to Twitter's compliance with the  
24 consent order. Do you recall that topic of testimony  
25 from earlier today?

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1 A. I do.

2 MS. COLLESANO: Objection. Mischaracterizes  
3 the testimony.

4 BY MR. KOFFMANN:

5 Q. Mr. Roque, was there a particular meeting that  
6 you had with representatives from the FTC that gave you  
7 that impression?

8 A. Yes, there was.

9 Q. Can you tell me when that meeting occurred?

10 A. I believe there was discussion on an initial  
11 meeting we had in December, early December with the  
12 FTC, and then a secondary meeting that -- I can't  
13 remember the timing. It may have been end of January.

14 Q. And that's December 2022?

15 A. Yes, I apologize, December 2022.

16 Q. And so just focusing on that December 2022  
17 meeting, do you recall who attended that meeting?

18 A. I don't. I would have to going back and look  
19 at the calendar invite. It was the first time I had  
20 talked to that group of individuals from the FTC. I  
21 know Reenah was there just because she did -- led most  
22 of the discussion, and at the time, her -- there was a  
23 gentleman, I believe it was her boss, but I can't  
24 remember his name. And then there was maybe two or  
25 three other people from the FTC at that meeting.

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1 Q. You said that Ms. Kim did most of the talking.  
2 Did her -- the person you perceived to be her boss, did  
3 he speak as well?

4 A. He did. He was engaged in part of the  
5 conversations.

6 Q. Did anybody else from the FTC make any comments  
7 that affected the impression that you received that the  
8 FTC had an expectation about what the outcome of your  
9 assessment would be or was it just Ms. Kim and her  
10 boss?

11 MS. COLLESANO: Objection. Mischaracterizes  
12 prior testimony.

13 MS. VANDRUFF: You can answer.

14 THE WITNESS: Okay. I don't remember any of  
15 the other individuals asking any significant questions.  
16 They were mostly very tactical in nature if they did  
17 ask a question.

18 BY MR. KOFFMANN:

19 Q. Is it possible that Ms. Kim's boss, whom you  
20 referred to, is James Kohm?

21 A. I don't want to speculate. I would have to go  
22 and look at the invite and double check exactly who it  
23 was.

24 Q. Okay. And what was it that representatives  
25 from the FTC said in that meeting that gave you the

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1 impression that you characterized earlier about their  
2 expectation about the outcome of the order assessment  
3 that Ernst & Young was conducting?

4 MS. COLLESANO: Objection. Mischaracterizes  
5 prior testimony.

6 THE WITNESS: The meeting in December was --  
7 the meeting in December was more, from my recollection,  
8 interesting in the standpoint of we were -- the FTC had  
9 reached out. They had wanted to talk to Ernst & Young  
10 directly and see what information we knew about the  
11 amount of change that was taking place in Twitter  
12 during the month of November after the acquisition and  
13 what we were seeing, with the assumption that we were  
14 already on the ground and onsite and sort of executing  
15 work.

16 As part of that, we informed them that we  
17 hadn't actually executed any procedures. We were  
18 having some challenges in tracking down key contacts.  
19 The information that we were getting was primarily  
20 based from articles in the press, and you know, we were  
21 trying to figure out what to do. And I believe a  
22 question was asked "what do you mean trying to decide  
23 what to do?" And we said, "well, we are trying to  
24 consider everything from when can we start field work?  
25 Where does this reside? Are they going to fire us?" I



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1 mean, we just didn't know.

2 And one of the comments at that point was made  
3 that Ernst & Young, under all circumstances, will be  
4 conducting and issuing a report on behalf of the FTC  
5 order. So it was sort of like it was very adamant  
6 about this is absolutely what you will do and this is  
7 going to occur, and you'll produce a report at the end  
8 of the day.

9 So for me, that was a bit surprising to be so  
10 adamant about that not knowing what could have  
11 transpired over the next six to seven months before  
12 that report was due.

13 BY MR. KOFFMANN:

14 Q. Just to be clear, I believe you testified  
15 earlier, but correct me if this is not your testimony  
16 or if this is not an accurate description of the sense  
17 that you got based on your interactions with the FTC  
18 but that you had the impression, based on your  
19 conversations with the FTC, that the FTC expected that  
20 the report that Ernst & Young would issue would  
21 conclude or would have findings or, in other words,  
22 would conclude that there were deficiencies in  
23 Twitter's privacy and information security program?

24 MS. VANDRUFF: Objection. Misstates prior  
25 testimony.

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1           You may answer the question.

2           MS. COLLESANO: Objection. Vague.

3           THE WITNESS: You are correct. I apologize. I  
4 stopped to see if you had questions and I didn't  
5 finish. Your broader question of what happened, there  
6 was sort of two meetings. That was the first one in  
7 December, which was sort of expectations were  
8 definitely set from that meeting.

9           And then I forget the second meeting we had in  
10 January where they were asking about the extent of our  
11 procedures and the results. And at that meeting, I  
12 believe, they started providing areas that they were  
13 expecting us to look at. They had given us a list of  
14 specificity of the types of procedures they were  
15 expecting us to execute, and they also said -- that was  
16 the meeting where it was communicated that they would  
17 expect Ernst & Young to have findings or exceptions or  
18 negative results in certain areas based on what they  
19 already understood from an operational standpoint,  
20 based on information Twitter had provided, and that if  
21 we ended up producing a report that didn't have  
22 findings in those areas, that they would be surprised,  
23 and they would be definitely following up with us to  
24 understand why we didn't -- why we reached the  
25 conclusions we did if they were sort of not reflecting

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1 gaps in the controls.

2 BY MR. KOFFMANN:

3 Q. So the expectation that the FTC conveyed about  
4 the results of the assessment and what would happen if  
5 Ernst & Young concluded its work without making  
6 findings or exceptions, that was communicated not at  
7 the initial meeting in December, but only at the  
8 subsequent meeting; is that correct?

9 A. That's correct.

10 Q. So let's go back to the December meeting.  
11 During that meeting, what was conveyed to you was that  
12 the FTC had a definite expectation that Ernst & Young  
13 would issue a report; is that correct?

14 A. That's correct.

15 Q. And I believe you said before that you found  
16 that surprising; is that right?

17 A. Surprising from the standpoint of there was so  
18 much change going on, there was press communications  
19 about the company going through and firing a variety of  
20 providers on a variety of fronts, that there was -- I  
21 don't think it was unreasonable for somebody to come  
22 along and say "we are not going to use Ernst & Young  
23 for this; fire them and go get somebody else." It was  
24 just speculation, I guess, but the FTC was very adamant  
25 that it would be Ernst & Young. And I sort of stepped

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1 back and said "a lot is going on; who knows." I didn't  
2 say that to them. That was sort of what I thought.

3 Q. Did the possibility that Ernst & Young would  
4 not complete the assessment come up at that December  
5 meeting?

6 A. No, I don't believe it did.

7 Q. Okay. Anything else that happened in that  
8 December meeting that gave you the impression that the  
9 FTC had expectations about what Ernst & Young would  
10 conclude in its order assessment engagement?

11 A. Not on a conclusion standpoint in the December  
12 the meeting.

13 Q. Did anything else happen at the December  
14 meeting that you would characterize as unusual?

15 MS. VANDRUFF: Objection. Vague.

16 You may answer.

17 THE WITNESS: For me, yes. There was a level  
18 of specificity on the execution of very specific types  
19 of procedures that they expected to be performed. It  
20 was almost as if they were giving us components of our  
21 audit program to execute.

22 BY MR. KOFFMANN:

23 Q. And why was that unusual?

24 A. Because I usually wouldn't have a third  
25 party -- well, having a third party is an unusual

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1 situation in general for providing a test report. But  
2 if a third party usually wants a specific procedure  
3 performed, then that type of engagement usually would  
4 not be a testing engagement. We would call it agreed  
5 upon procedures, where all the parties involved in  
6 getting the report would agree on the specific  
7 procedures to be executed so that they all agree that  
8 they would be done for the particular needs and wants  
9 of the users of the report.

10 The other component of that was a little  
11 unusual -- the other component of that report was that  
12 the -- our approach is you look at the processes and  
13 controls. So we say, "okay, how does security operate?  
14 How does the user administration process manage? How  
15 are changes developed and pushed to production?" And  
16 we look at the controls in those.

17 The requests we were looking at were very  
18 specific of, you know, going across the entire service  
19 to execute certain commands to make sure certain  
20 settings were existing or not, for example. And as  
21 auditors, they are not specifically required or there's  
22 a need to based on a perceived risk, we, once again,  
23 audit for the processes and controls that mitigate the  
24 general risks. Not going into some of the one-offs,  
25 very specific details they were asking us about.

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1 Q. Okay.

2 A. Sorry if that was confusing.

3 Q. No, no, it's helpful. Let's move to the second  
4 meeting that you referred to before that I believe you  
5 said your best recollection is that it occurred  
6 sometime in January of 2023. Do you have --

7 A. That's correct.

8 Q. Do you have in mind the meeting that I'm  
9 referring to?

10 A. I believe so, yes.

11 Q. And it was during that meeting that  
12 representatives from the FTC expressed that they  
13 believed Ernst & Young's assessment would lead to  
14 findings or exceptions about Twitter's compliance with  
15 the consent order?

16 MS. COLLESANO: Objection. Mischaracterizes  
17 prior testimony.

18 MS. VANDRUFF: Same objection.

19 You may answer the question, Mr. Roque.

20 THE WITNESS: That was my personal opinion when  
21 I walked away from the meeting.

22 BY MR. KOFFMANN:

23 Q. Who was at that meeting?

24 A. I know I was at the meeting, and I believe  
25 Rebecca Lubens, our internal counsel, EY counsel was on

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1 the call with the FTC.

2 Q. And do you recall who from the FTC attended?

3 A. I would have to go back and look again.

4 Q. Was Ms. Kim in that meeting?

5 A. I believe she was.

6 Q. Was the same person who you characterized  
7 earlier as her boss in that meeting?

8 A. No, I don't believe the gentleman joined that  
9 meeting.

10 Q. Okay. Do you recall how many people from the  
11 FTC attended?

12 A. This was a smaller group. I think it was two  
13 or three. I just remember a second gentleman only  
14 because he had recently joined the FTC and had  
15 communicated on introductions he had only been there a  
16 week.

17 Q. And what did the representatives from the FTC  
18 say that gave you the impression that they expected  
19 that there would be findings in Ernst & Young's report?

20 A. It was along the lines of there's certain areas  
21 that I took away that they believe were already not  
22 working correctly and that they wanted to -- or so they  
23 had an expectation up front that those areas would be  
24 the ones that we would also have similar findings if we  
25 conducted the procedures.

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1 Q. Anything else that occurred during that meeting  
2 that gave you the impression that the FTC expected that  
3 there would be findings in Ernst & Young's report?

4 A. No.

5 Q. Is there anything, aside from what occurred  
6 during the two meetings that we've just discussed, that  
7 gave you the impression that the FTC expected there  
8 would be findings in Ernst & Young's report?

9 A. No. It was primarily that January meeting.

10 Q. Do you know whether any other Ernst & Young  
11 representative met with the FTC regarding Ernst &  
12 Young's order assessment engagement?

13 A. I know Rebecca Lubens occasionally had  
14 conversations with them to provide them sort of updates  
15 of what was transpiring.

16 Q. And without revealing the substance of any  
17 communications that you had with Ms. Lubens, did she  
18 report to you afterwards about those meetings?

19 MS. VANDRUFF: So just I'm going to caution  
20 Mr. Roque that that is a yes-or-no question, that you  
21 can answer with a yes or a no.

22 THE WITNESS: Yes.

23 BY MR. KOFFMANN:

24 Q. And again, yes or no, did those reports include  
25 purely statements that the FTC representatives had made



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1 during those meetings without her analysis or  
2 impressions of the meaning of those statements?

3 MS. VANDRUFF: Counsel, any communication from  
4 Ms. Lubens to Mr. Roque, I don't know that he's in a  
5 position to know whether they include her analysis or  
6 otherwise, so I'm going to instruct him not to answer  
7 that question on the basis of attorney-client  
8 privilege.

9 MR. KOFFMANN: Okay. I don't think that that's  
10 the law. We don't have to debate that now. But I do  
11 think for purposes of the record, that I'm entitled to  
12 ask a few more questions that will be yes or no, and  
13 you'll give whatever instructions you deem appropriate.

14 MS. VANDRUFF: Okay.

15 BY MR. KOFFMANN:

16 Q. Mr. Roque, is it true that you are not in a  
17 position to evaluate whether Ms. Lubens reported to you  
18 statements that FTC representatives had made to her  
19 without her impressions or opinions about those  
20 statements?

21 MS. VANDRUFF: You can answer yes or no.

22 THE WITNESS: I'm sorry, you were being so  
23 careful to ask the question, I'm not sure I --

24 BY MR. KOFFMANN:

25 Q. It's a complicated question. So I apologize

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1 for that. Let me see if I can make it a little bit  
2 simpler.

3 I asked you a question a minute ago, and your  
4 counsel instructed you not to answer. And as I  
5 understand the basis for her instruction was that you  
6 were not in a position to know whether what Ms. Lubens  
7 was telling you about her communications with the FTC  
8 included her thoughts and opinions about those  
9 interactions or if she was just reporting to you "this  
10 is what they told me."

11 So my question to you, is that true? Are you  
12 able to distinguish between whether Ms. Lubens was just  
13 telling you "I spoke to the FTC today and they said X,  
14 Y and Z" as opposed to a report to you that  
15 incorporated her thoughts and impressions about her  
16 interactions with the FTC?

17 MS. VANDRUFF: And Dan, I'm just going to  
18 object again that I think you are asking Mr. Rogue to  
19 read Rebecca's mind, and that isn't fair to Mr. Rogue.  
20 But if he's able to answer the question, I'll allow him  
21 to.

22 And if you want the court reporter to read back  
23 what Mr. Koffmann just said, she can do that.

24 THE WITNESS: I don't think I can answer that  
25 question.

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1 BY MR. KOFFMANN:

2 Q. Okay. Do you have any reason to believe  
3 that -- well, let me move to a different topic, which  
4 is as part of your 30 years working at Ernst & Young,  
5 30-plus years, has part of your practice been to  
6 interact with government regulators?

7 A. Yes.

8 Q. Is that something that you do on a weekly  
9 basis?

10 A. No.

11 Q. On a yearly basis?

12 A. Yes.

13 Q. How many engagements -- if you had to estimate,  
14 how many engagements have you been involved in that  
15 have involved interactions with government regulators?

16 A. Approximately 20.

17 Q. In any of those prior approximately 20  
18 engagements, have your interactions with the regulator  
19 given you the impression that the regulator had  
20 expectations that Ernst & Young would have findings or  
21 exceptions in a report that Ernst & Young would issue?

22 A. No, but I feel obligated to clarify most of  
23 those regulatory interactions would be with the PCOB.  
24 And so those type of interactions are very different  
25 from this particular engagement.

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1 Q. Are there any engagements that you personally  
2 have been involved in that you would characterize as  
3 similar to the Twitter order assessment engagement?

4 A. No.

5 Q. When the FTC conveyed to you their expectation  
6 that there would be findings in Ernst & Young's report,  
7 did you discuss that with any of your colleagues at  
8 Ernst & Young or at any other firm?

9 MS. COLLESANO: Objection. Mischaracterizes  
10 prior testimony.

11 MS. VANDRUFF: You may answer.

12 THE WITNESS: Yes.

13 BY MR. KOFFMANN:

14 Q. In my next question I don't want you to tell me  
15 about communications you had with attorneys for Ernst &  
16 Young. So with the exception of any attorneys for  
17 Ernst & Young, did you discuss with anybody else  
18 whether they had experience or been involved in an  
19 engagement where a government regulator expressed their  
20 expectation that an auditor or an accounting firm or an  
21 assessor would have findings or exceptions in a report  
22 that they would be issuing?

23 MS. VANDRUFF: Mr. Roque, I caution you that in  
24 responding to counsel's question that you not provide  
25 any information that involves communication with an

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1 attorney for Ernst & Young.

2 THE WITNESS: I'll clarify if I understood the  
3 question correctly, Mr. Koffmann, you said excluding  
4 conversations with legal. So there was no other  
5 communications that I had with other individuals that  
6 were not legal counsel around this area.

7 BY MR. KOFFMANN:

8 Q. So the only communications that you had about  
9 the FTC's expectation that Ernst & Young's report would  
10 have findings or exceptions, those were only with  
11 attorneys for Ernst & Young?

12 A. That's correct.

13 Q. And then I just want to make sure I have the  
14 chronology right on the week before Ernst & Young  
15 communicated to Twitter that it was resigning. That  
16 occurred on February 27th; is that correct?

17 A. The actual communication to Twitter, yes.

18 Q. And the decision had been made on either the  
19 20th or the 21st?

20 A. That's correct.

21 MS. VANDRUFF: Objection. Misstates prior  
22 testimony.

23 THE WITNESS: Yes, it was made earlier in that  
24 week.

25 BY MR. KOFFMANN:

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1 Q. Do you recall when earlier in that week?

2 A. A few days prior.

3 Q. At the time that Ernst & Young decided it would  
4 be terminating Twitter, were there still outstanding  
5 invoices?

6 A. I don't know. I would have to go and pull the  
7 records of when the payments were received.

8 Q. Let's take a look at Exhibit 18.

9 A. Is this coming through the same tool?

10 Q. Yes. So this is the exhibit that counsel for  
11 the FTC marked as Exhibit 18 and has a Bates label  
12 EY\_FTC\_0002802. It's an e-mail from Yvette Yeo on  
13 February 24, 2023, to David Roque, copying Ryan  
14 Walkenhorst.

15 A. Yes.

16 Q. Do you have that in front of you?

17 A. I do.

18 Q. And we looked at this before obviously. Does  
19 this refresh your recollection -- well, withdrawn.

20 As of February 24th, had Ernst & Young been  
21 paid by Twitter or were there still outstanding  
22 invoices?

23 A. Based on the message, I believe the invoices  
24 for our system were still showing as outstanding.

25 Q. Do you know whether the decision to terminate

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1 Twitter had been made prior to this e-mail?

2 A. I believe yes.

3 Q. Did Ernst & Young receive payment for  
4 outstanding invoices after this e-mail but prior to  
5 your conversation with Christian Dowell in which you  
6 informed him that Ernst & Young was resigning?

7 MS. VANDRUFF: Objection. Asked and answered.  
8 You may answer the question.

9 THE WITNESS: I would have to go back and look  
10 at the day the payments were posted.

11 BY MR. KOFFMANN:

12 Q. Did you communicate to Mr. Dowell that Ernst &  
13 Young was resigning before you were informed that Ernst  
14 & Young had been paid its outstanding invoices?

15 MS. VANDRUFF: Objection. Asked and answered.  
16 You may answer the question.

17 THE WITNESS: I don't, no. Sorry. Not I don't  
18 know. Just no.

19 BY MR. KOFFMANN:

20 Q. So you did not inform Mr. Dowell that Ernst &  
21 Young was resigning until after you had been informed  
22 that Ernst & Young had been paid?

23 A. No, that's not correct.

24 MS. COLLESANO: Mischaracterizes testimony.

25 MR. KOFFMANN: I was not characterizing his

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1 testimony. I was asking a question.

2 BY MR. KOFFMANN:

3 Q. Please continue, Mr. Roque.

4 A. We had set up a meeting with Christian Dowell  
5 on the 27th to communicate our resignation. On the day  
6 of that meeting, I had no idea whether or not the  
7 payments had been received or not.

8 MR. KOFFMANN: Understood. That's all I have.  
9 Thank you, Mr. Roque.

10 MS. VANDRUFF: I would like to take a short  
11 break.

12 (A recess was taken.)

13 EXAMINATION

14 BY MS. VANDRUFF:

15 Q. Mr. Roque, I would like to ask you about the  
16 document that Ms. Collesano marked as Exhibit 7, which  
17 was Bates labeled EY\_FTC\_0007423. Can you take a  
18 moment to review that.

19 A. Yes, I have it open.

20 Q. And do you remember addressing this document  
21 with counsel for the FTC?

22 A. Yes, I do.

23 Q. And attached to your e-mail to Mr. Penler were  
24 talking points that, as you described for counsel for  
25 the FTC, you had drafted; is that correct?



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1 A. Yes, I believe so.

2 Q. Did you consult with counsel for Ernst & Young  
3 in drafting those talking points?

4 A. Yes.

5 Q. Was counsel for Ernst & Young with whom you  
6 consulted Ms. Lubens?

7 A. Yes.

8 Q. And was the purpose of consulting with  
9 Ms. Lubens for seeking her advice?

10 A. Yes.

11 MS. VANDRUFF: I have no further questions.

12 MS. COLLESANO: Thanks, Mr. Roque. I don't  
13 have any further questions right now. We really  
14 appreciate your time testifying today.

15 (Reading and signature not waived.)

16 (Whereupon, the proceedings at 8:22 p.m.,  
17 Eastern, were concluded.)

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1 C E R T I F I C A T I O N O F R E P O R T E R

2 DOCKET/FILE NUMBER: C4316

3 CASE TITLE: USA V. TWITTER, INC.

4 DATE: JUNE 21, 2023

5

6 I HEREBY CERTIFY that the transcript  
7 contained herein is a full and accurate transcript of  
8 the notes taken by me at the hearing on the above cause  
9 before the FEDERAL TRADE COMMISSION to the best of my  
10 knowledge and belief.

11

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DATED: 6/26/23

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DEBORAH WEHR, RPR

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1 CERTIFICATE OF DEPONENT

2 I hereby certify that I have read and  
3 examined the foregoing transcript, and the same is a  
4 true and accurate record of the testimony given by me.

5 Any additions or corrections that I feel are  
6 necessary, I will attach on a separate sheet of paper  
7 to the original transcript.

8

9

10 \_\_\_\_\_  
DAVID ROQUE

11 I hereby certify that the individual  
12 representing himself/herself to be the above-named  
13 individual, appeared before me this  
14 \_\_\_\_\_ day of \_\_\_\_\_, 2023, and  
15 executed the above certificate in my presence.

16

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18 \_\_\_\_\_  
NOTARY PUBLIC IN AND FOR

19

20 \_\_\_\_\_  
MY COMMISSION EXPIRES:

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1 WITNESS: DAVID ROQUE  
2 DATE: JUNE 21, 2023  
3 CASE: USA V. TWITTER, INC.

4

5 Please note any errors and the corrections  
6 thereof on this errata sheet. Do not write on the  
7 transcript. The Rules require a reason for any change  
8 or correction. It may be general, such as "To correct  
9 stenographic error," or "To clarify the record," or "To  
10 conform with the facts."

11 PAGE LINE CORRECTION REASON FOR CHANGE

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